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NEVADA APPLIED HISTORY SERIES

Edited by

JEANNE ELIZABETH WIER

OF THE STATE OF NEVADA

TAXATION IN NEVADA
A History

By

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EDITOR'S INTRODUCTION

The motto of the Nevada Historical Society, "*Servare et Conservare*"—"To serve and to preserve"—indicates that the functions of this organization are not merely to gather together the documents and the relics of the past, but to create a workshop for students who may seek to organize and interpret the facts of history in the interest of present and future progress. Some such studies have been made hitherto through the use of the historical archives of the Society and have been published in our *Reports and Papers*. As this institution is enabled by increasing appropriations to gather under its roof a more complete stock of materials such research work will be more effectively prosecuted. Comparatively few scholars possess the time or patience to run down for a brief monograph source material so far afield and so difficult to collect as is that pertaining to Nevada.

The following excerpt is from Benj. F. Shambaugh's introduction to Brindley's *History of Taxation in Iowa*. With a few words changed, it would apply equally well in relation to the work of Dr. Adams's *Taxation in Nevada:*

> The writing of a history of taxation in Iowa is not an easy task: indeed, it involves many difficult problems both of research and of presentation. From beginning to end the scientific investigator is really embarrassed by a superabundance of materials. The statute books of the Territory and State, the journals of the Legislature, the messages of Governors, the reports of Auditors and Treasurers, the reports of

special commissions, the decisions of courts, the financial reports of counties, special and miscellaneous public documents, and tons of newspapers yield a richness of data that is inviting and at the same time appalling. The facts and statistics of industrial and economic developments, covering nearly three quarters of a century, are equally abundant and far more difficult to obtain. The problems of handling such masses of detailed information fully, accurately, and without confusion can only be appreciated by those who have successfully carried to completion similar investigations.

But the problems of historical research are not the only difficulties which confront the writer of such a history of taxation as has been produced by Professor Brindley. Underlying the statute and the code provisions, the reports of public officials, the decisions of the courts, and the facts of industrial life, are fundamental economic principles and theories which must not only be seen and appreciated by the investigator, but by him successfully handled as scientific interpretations of the facts of history. And of no less importance are the problems of politics and administration involved in the actual workings of the machinery of assessment, equalization, and collection.

Moreover, the opportunity for utilizing and making practical application of the results of historical research are perhaps nowhere more promising than in the field of fiscal legislation and administration. Nowhere, indeed, are there today greater opportunities for the science of Applied History than in the solution of the complex problems of tax reform. At the same time there is no line of reform that is more difficult and perplexing, since from the very nature of the problems involved the whole subject is one which is too often handled with prejudice, or partizanship, or from the standpoint of selfish interest.

Through the clear and impartial interpretation of the financial facts of Nevada history Dr. Adams has made an important contribution to the historical literature of this State. It is now possible for the busy man or woman easily to become informed concerning our system of taxation and the manner in which it has been evolved. In a democracy such knowledge widely disseminated serves as the sure basis of progress.

AUTHOR'S PREFACE

The history of taxation in Nevada possesses both a practical and a theoretical interest. It has an important practical significance because it furnishes suggestions relative to reforms designed to adjust the system of taxation to the special circumstances prevailing in this State. To the student of public finance the experience of Nevada possesses features of unique interest because of the special physical, economic, and political conditions. In the language of the logician, Nevada presents some important variations in the circumstance.

Admitted to statehood in 1864 on account of a national political exigency[1] when it had a population of only about fifty thousand people, and when it had no stable industry, Nevada has had an experience unlike that of other American States. During the early period of statehood the dominant industry was gold and silver mining. Indeed, there was no other basic industry at all, the scanty agriculture being directly dependent on the market of the mining camp for its existence. In later years there was a rise in the stock-raising interests and a decline in mining, while more recently there has been a more diversified and better balanced economic development with mining and stock raising the important industries.

The sparse population of the State has fluctuated largely with the mining movement, and, after reaching an estimated early maximum of about seventy thousand in 1877, it declined to but little over half that number in 1900, and then more than doubled in the next seven years, after which there was a small loss. This small population has maintained all of the machinery of state and local government, and consequently the per capita tax is very high and would be burdensome were it not for the fact that Nevada leads all the States by a wide margin in per capita wealth.[1]

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[1] One more antislavery State was needed to carry the Thirteenth Amendment to the National Constitution, and Nevada was, through the influence of Abraham Lincoln, admitted to the Union in order to supply this vote.

The main plot of the story of taxation in Nevada grows out of the fact that the traditional system of taxation brought from the Eastern States was a misfit under the special economic and political conditions which prevail in this State. The early settlers—if men who moved about so constantly can be called settlers—were familiar with the methods of taxation that had become traditional in the eastern half of the country by the middle of the last century, and the makers of the state constitution appeared to regard the general property tax, excepting as applied to the mines, as right beyond question and without reference to conditions. The constitution exempted mines from taxation, taxing the proceeds only; but with this exception, and with the exception of certain classes of property devoted to public uses, all property, real and personal, was made taxable at a uniform rate, and provision was made for uniform assessments.

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[1] Per capita estimated true value of all property in the United States and in each of the five States having the highest per capita true value for 1912 (*Wealth, Debt, and Taxation*, vol. 1, p. 26):

United States	$1,965	North Dakota	$3,374
Nevada	$5,038	California	$3,284
Iowa	$3,539	Nebraska	$3,110

There have been more or less constant efforts on the part of the people, through evasion, litigation, and legislation, to escape from the natural outcome of the misfit imposed by the constitution, and to adjust the system to the special needs of the State. These efforts have met with a measure of success, but more direct and more fundamental improvements await a change in the organic law of the State—a change placing greater power and responsibility in the hands of the Legislature.

It is not the purpose of a work primarily historical to undertake the propaganda of any system of taxation. Nevertheless the present work has some connection with the very general movement in the United States in the direction of tax revision. No true history of taxation can fail to point out the practical working effects of the system described, nor can it omit a definition of the problems which have arisen in connection with its administration. Any wise revision of the system of taxation must be based on experience interpreted in the light of principles. History thus contributes toward conservative progress.

All efforts directed toward a reorganization of our system of taxation should recognize the principles of historic continuity. The State, now more than half a century old, does not stand at the beginning. Business interests are more or less adjusted to the existing system and the owners of various sorts of property have rights which should not be violated by a vacillating policy or by unnecessarily radical or rapid changes. Nevertheless the right of the State, after careful deliberation and adequate knowledge, to introduce such reforms as may be demanded by the special circumstances must always be recognized.

For more than six years the writer has devoted to this study such time as his other duties have permitted. Since this period has been one of considerable progress, it has been his privilege to revise many paragraphs, substituting for the original arguments in behalf of certain reforms a treatment of such reforms as accomplished facts. It has been his privilege also to be in pretty close touch with the leaders in the progress of this period. In 1912–1913 he served on the Citizen's Committee on Economy and Taxation and thus participated in the deliberations that led to the creation of the Nevada Tax Commission. Through frequent conversations with the members of the Tax Commission he has been able to follow pretty closely the main steps through which taxing procedure has been modified by this central administrative agency.

In the preparation of a monograph of this character, the problem is what to leave out. The writer is tempted to include much material which interests him, but which has no great value for the ordinary reader. After one has devoted many hours to a statistical study to establish the validity of some general proposition, he is disposed to present all his evidence. However valuable such material may be to a few special students and investigators, it tends to obstruct the progress of the ordinary reader. The writer wishes chiefly to reach the intelligent citizens of the State who are interested in taxation and, to this end, he has brought the more valuable material within the compass of a small volume. Most statistical tables have been omitted. Aspects of taxation of considerable general importance, but of little special significance to Nevada, have not been considered. While the facts of experience are interpreted from the standpoint of general principles, there is no systematic exposition of these principles. Matters of small importance are given small space. Emphasis has been placed on those things in which the experience of Nevada has been somewhat unique, and on matters of practical importance from the standpoint of tax reform.

The subject of taxation is not necessarily so abstract and technical that it is devoid of interest to the ordinary citizen. It has its human interest. This monograph is written, not primarily for the specialist, but for the citizen, and the writer has tried to attain a style that will not detract from such interest as may inhere in the subject.

The author would acknowledge his obligation for aid to numerous public officers, and particularly to the able men who have served on the Tax Commission during the four years of its existence, to Professor A. E. Hill who has read the manuscript, and to Professor Jeanne E. Wier, Secretary of the State Historical Society.

ROMANZO ADAMS.

UNIVERSITY OF NEVADA,
September 15, 1917.

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CHAPTER I

ECONOMIC CONDITIONS

The experience of Nevada in matters of taxation, while, in many respects, similar to that of the American States generally, has been characterized by certain features peculiar to the West, or to Nevada alone. The elements of similarity owe their origin to the fact that the people, mainly derived from the older States, reenacted the general system of laws with which they were familiar. Its peculiarities are due to a more or less well-directed effort to adjust the financial system to the special political, physical, and economic conditions prevailing in this State. While it is possible to trace the more important features of Nevada's political institutions to some of the Eastern States, New York in particular, and others to some of the Southern States, the direct debt is almost exclusively to California, the first of the Commonwealths west of the Rocky Mountains to organize state government, and the first to face the problem of adapting her political institutions to the demands created by the special physical and economic conditions of the far West.

Fortunately the population of California was of a cosmopolitan character, and from this fact there was a wealth of suggestion as to the ways and means of such adaptation. There was the old Spanish population which contributed some features of its legal system. The new English-speaking population was drawn from all parts of the United States, most largely from the North, but in important numbers from the South. The political and legal system with which California began statehood owes most to that of New York, but in at least two respects the influence of the Southern States is manifest. The county system of local government and the general business license tax for local purposes were both southern, they both represent adaptations to special western physical and economic conditions, and both were taken over and made a part of Nevada's political system.

EARLY SETTLEMENT OF THE STATE

In the early settlement of the State and in the development of its resources, Nevada had an unusual experience. A few tavern-keepers and small farmers at way stations along the "Overland Route" constituted the chief population of Nevada before 1859. In that year the famous Comstock Lode was discovered, and by 1860 the region that is now Nevada had 6,857 people, most of them located in or near Virginia City, the new mining camp. The next year, when the Territory of Nevada was organized, there were 16,374 people mainly in the same locality. By 1864 when the Territory became a State, the population was about fifty thousand. About two-thirds of this population was economically dependent upon the Comstock mines and most of the remainder upon other mines.

Nevada was not settled in the westward movement, but in a rebound from that movement. Most of the early miners came from California whose placer mines were declining in importance when the Comstock was discovered. Since California, in her ten years of experience, had worked out a political system more or less adapted to the conditions prevailing in a pioneer mining State, it was natural and logical that the constitutional, legal, and fiscal system of that State should serve as a model for Nevada.[1] As a matter of fact, the California institutions were set up in Nevada bodily, with few modifications.

So far, however, as the system of public finance was concerned, these borrowed institutions represented in a large measure a mere rough adjustment to pioneer conditions. The system of taxation was workable, and it made possible the carrying on of state and local government, but in no sense was it a system adapted to the permanent needs of Nevada.

PHYSICAL CONDITIONS

Any intelligent view of Nevada's system of taxation must be based upon a clear understanding of certain main features of its economic development, and of the physical conditions which have controlled this development. The entire area of Nevada lies in the arid or semiarid region east of the Sierra Nevada. The region is, in the main, a plateau of from four thousand to five thousand feet elevation, interspersed by a large number of parallel ranges of mountains commonly reaching a height of about eight thousand feet, but with a few higher ranges, and with occasional peaks from ten to thirteen thousand feet above the sea-level. The precipitation is confined almost wholly to the winter months of the year, the growing season being practically rainless. The precipitation in the valleys of the northern half of the State is from five to ten inches a year. In the mountains the snowfall is greater, varying according to the altitude. Only the higher mountains, however, receive a sufficient fall of snow to give rise to perennial streams. In the southern part of the State the precipitation become negligible in the valleys and even the mountain snows give rise to only a few very small streams.

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[1] The thirty-four members who sat in the Constitutional Convention (1864) represented eleven States and three foreign countries in their nativity. All but two of them, however, came to Nevada from California where they had lived for an average period of about nine years. See *Nevada Constitutional Debates*, p. xvi.

There are four rivers of considerable size in Nevada, all in the northern and west central part of the State. Three of these, the Truckee, the Carson, and the Walker, rise in the Sierra, and, after serving to water some fertile lands, each ends its course in a lake where the unused waters evaporate. The Humboldt River has its origin in the higher ranges of northeastern Nevada, and flows in a general westerly direction two-thirds of the distance across the State to Humboldt Lake. These four rivers collectively supply over four-fifths of all water used for irrigation. Agriculture is confined mainly, therefore, to the northern half of the State.

With small exception only such land as is capable of being irrigated has been cultivated. The mountains, however, furnish pasturage for sheep and cattle. The pasturage is found chiefly in the northern part of the State where the snowfall is more abundant. Because of the relatively large area of range pasture land ~~and of~~ the small area of irrigated land, the use of the irrigated area is dominated by the needs of the livestock industry.

AGRICULTURE AND STOCK RAISING

Agriculture and stock raising have developed along lines peculiar to Nevada. According to the census of 1910 less than four per cent of the area of the State was in farms, and nearly three-fourths of this was unimproved range land. Most of the land still belongs to the National Government, but it has been utilized for pasturage by the owners of great flocks and herds.

Perhaps the most marked characteristic of this range stock farming is the magnitude of its units. The average size of Nevada farms was, according to the census of 1910, 1,009 acres; but 344 of these farms embracing 82.8% of all land in farms and 70.2% of all improved land, and having 53.8% of the value of all farms, had an average size of 6,530 acres. The largest of these holdings embraces an area of over one hundred and seventy-five thousand acres, and several others vary in area from fifty thousand to a hundred thousand acres. These large holdings are not in the form of solid tracts, but they follow streams in such a way as to control the water supply of a region of much greater extent, and thus they control, in some measure, the pasturage of vast regions.

Under existing conditions large ownership has certain economic advantages. Some ranges can be used only in winter because there is no drinking water in summer. Others covered with deep snow in winter are valuable in midsummer. Still others are adapted to spring or to autumn use. The stockman, particularly the sheep man, finds it advantageous to own several ranches sufficiently far apart to secure desirable differences in climatic conditions. In the course of the year a band of sheep may travel from the northern summer range to the southern winter range two or three hundred miles distant. A smaller range is feasible for cattle, since they are fed in winter.

Through incorporation and combination a further concentration of control is effected, so that most of the land and live stock of the State are owned by less than sixty large owners, chiefly corporate, and the tendency is toward further combination. As long as the National Government fails to exercise control over the public range lands of Nevada it appears to be probable that the livestock industry will continue to be conducted on the basis of large units, for by this means a more peaceful use of the range pastures is secured.[1]

The early agriculture of Nevada developed as an industry secondary to mining. Since supplies of hay and grain could be brought into the State only by expensive ox-team freight over the Sierra Nevada, the prices of farm produce were very high, and this served to stimulate a certain amount of agriculture in the vicinity of the more important mining camps. The chief products were hay, barley, wheat, oats, and potatoes, together with the heavier garden vegetables. Less wheat was grown after the Central Pacific Railroad was built, and, with the decline of mining, there was a decline in the production of other cereals and of potatoes and dairy products, so that in 1890, twenty-six years after the admission of Nevada to statehood, the entire area devoted to cultivated crops, excluding hay, was about sixteen thousand acres or two-thirds of a township. The production of hay increased steadily, but after 1880 it was grown less for use in mining camps and more in connection with range livestock interests.

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[1] See "Public Range Lands—a New Policy Needed," in the American Journal of Sociology, November, 1916.

In recent years there has been a slight tendency toward diversified farming. The cereals are grown more largely, potato cultivation is important in a few valleys, and there is an increase of dairying and gardening, but the State still imports considerable wheat and other cereals as well as fruits and vegetables for its consumption, while the use of the cultivable lands continues to be dominated by the needs of the range livestock industry.

STATISTICS SHOWING THE DEVELOPMENT OF AGRICULTURE AND STOCK RAISING IN NEVADA

	Number of Farms[1]	*Acres Irrigated*	*Value of Farm Crops*[1]
1860	91		
1870	1,036	47,309[2]	1,659,713
1880	1,404	116,377[2]	2,855,449
1890	1,277	224,403[1]	2,705,660
1900	2,184	504,168[1]	2,887,569
1910	2,687	701,833[1]	5,923,536

LIVE STOCK[1]

	Number of Cattle	*Number of Sheep*	*Value of Live Stock of All Kinds on Farms*
1860	5,461	376	$177,638
1870	31,516	11,018	1,445,490
1880	172,221	133,695	4,233,749
1890	210,800	273,469	5,801,820
1900	385,190	887,039	12,160,565
1910	449,681	1,154,795	19,213,930

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[1] U. S. Census.

[2] Reported as "cultivated" in the reports of the Surveyor-General.

FARM CROPS[1]

	Wheat Bushels	*Barley Bushels*	*Oats Bushels*	*Potatoes Bushels*	*Hay Tons*
1870	228,866	295,452	55,916	129,249	33,855
1880	69,298	513,470	186,160	302,143	95,853
1890	81,486	237,192	99,126	189,294	225,827
1900	151,176	224,035	450,812	361,188	419,812
1910	396,075	412,149	334,973	766,826	521,918

VALUE OF ALL CROPS IN NEVADA FOR 1909[1]

Hay and forage	$4,185,071
Cereals	923,763
Vegetables, chiefly potatoes	661,803
Fruits and nuts	102,811
Other grains and seeds	3,988
All other crops	46,100
Total	$5,923,536

About 55% of the acreage in hay grew wild hay. Less than forty-two thousand acres was devoted to cultivated crops, excluding hay, in 1909. Less than 6% of the irrigated land was in tillable crops.

FARMS DISTRIBUTED ACCORDING TO SIZE, AVERAGE NUMBER OF ACRES TO FARMS OF EACH SIZE CLASS, TOTAL NUMBER OF ACRES IN FARMS OF EACH SIZE CLASS, AND PER CENT OF ALL FARM LAND IN FARMS OF EACH SIZE CLASS FOR 1910[1]

	Number of Farms	*Average Number of Acres to the Farm*	*Total Number of Acres in all Farms of the size class*	*Per cent of all Farm Land in Farms of each size class*
Under 3 acres	87			
Under 20 acres	271	6.9	1,874	0.06
20–49 acres	320	32.2	10,328	0.4
50–99 acres	411	76.5	31,455	1.2
100–174 acres	555	147.0	81,615	3.0
175–499 acres	540	309.0	167,232	6.2
500–999 acres	248	708.0	175,691	6.5
1,000 or more acres	344	6,530.0	2,246,562	82.8

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[1] From the U. S. Census Reports.

MINING

The chief resources of Nevada are its mines of gold, silver, and copper. The early history of the State centers about a few mining camps, of which Virginia City, the leading camp of the famous Comstock Lode, was the most important. The mining of gold and silver, an unstable industry at all times, approached a maximum of instability in the early days of Nevada. The lack of convenient supplies of wood, water, and provisions combined with the costly ox-team transportation over the high Sierras and, in the case of some camps, across desert wastes, served to make mining operations very expensive. The less developed state of technical science had a similar effect. As a consequence, only the richer ores could be utilized profitably and this served to emphasize the transient and spectacular features of the industry.

Moreover, since mining developed in advance of agriculture, there was, in the early period, no other basic industry. What little agriculture there was consisted of the growing of hay, grain, and vegetables for the mining camps, and it depended for its existence on the very high prices created by the demand of the mining camps. The whole economic structure of society was, for the time being, as unstable as the mining industry upon which it rested.

Most of the American States began their development as agricultural communities, manufacture and mining coming later and remaining permanently, or at least for a long period, of secondary importance. This agricultural basis gave them a marked degree of stability even from the beginning. In Nevada the situation was different. When about fifty thousand people had been attracted to the Territory by the fame of a mining camp, it received the doubtful boon of statehood while as yet it possessed small population and wealth and little social and economic stability.

The following statistics of the production of the mines of Nevada are taken from the reports of the State Mineralogist for the years preceding 1867 and for the years 1871 to 1878, and from the Controller's reports for the other years. Before 1878 the reports are for the calendar years, and after that date for the twelve months ending September 30.

In the report of the State Mineralogist for 1865, it is estimated that the Comstock alone had produced about $45,000,000 in the five or six years following its discovery, the production for 1865 being $9,316,083.54. In 1866 the production of the entire State was $16,421,381.98, of which amount over 92% was from the Comstock.

The production of the State for the whole period 1866–1917 was as follows:

1866	$16,421,381	1877	$46,661,831
1867	16,172,502	1878	38,531,888
1868	13,295,311	1879	18,997,819
1869	10,021,567	1880	13,655,967
1870	11,757,896	1881	9,505,971
1871	20,010,175	1882	7,724,022
1872	24,722,249	1883	7,487,634
1873	32,057,577	1884	6,748,573
1874	29,587,379	1885	6,847,405
1875	35,252,585	1886	6,585,839
1876	45,653,477	1887	6,942,716

1888	$9,589,373	1903	$2,248,045
1889	7,734,816	1904	3,448,936
1890	6,864,231	1905	4,918,082
1891	5,948,563	1906	6,963,386
1892	4,100,133	1907	17,288,223
1893	2,501,169	1908	12,899,869
1894	928,704	1909	21,747,280
1895	1,723,671	1910	29,506,005
1896	4,062,921	1911	31,983,160
1897	3,319,026	1912	34,983,518
1898	2,764,563	1913	29,316,479
1899	2,142,273	1914	20,858,665
1900	1,880,147	1915	26,611,132
1901	2,944,160	1916	39,921,733
1902	2,960,913	1917	42,630,532

From 1864, the date of the State's admission into the Union, till about 1880 mining continued to dwarf all other industries, 1877 being the year of maximum production. From 1880 to 1902 the mining industry languished partly because the old bonanzas had been worked out and no new mines of equal richness had been discovered, partly on account of litigation, and partly because of the decline in the value of silver. During the last fifteen years there has been a revival of mining, but under different conditions. The progress in mining technology, the development of transportation agencies, and the production of a greater amount of hay and farm crops all combine to make it profitable to utilize ores of lower grade than could be used in the earlier period. Moreover, the mineral production of recent years is not so largely from any one camp, there being at least three widely separated camps of first importance, besides many others which produce great values in the aggregate. All of these factors count for greater economic stability.

Since the early history of the State is mainly an account of the development of a few successful mining camps and of a large number of hopes that failed, it may be well to point out those features of the evolution of a mining camp which are significant from the standpoint of taxation.

There are at least three pretty well-defined stages in the history of a successful mining camp which may be named: (1) The period of prospecting, promotion, and development; (2) the period of large production; and (3) the period of decline. Many camps never get beyond the first stage, while others may pass directly from the first to the third.

In the beginning a prospector "makes a strike," discovers gold- or silver-bearing ore under conditions which give rise to hopes that great values lie hidden in the vicinity. He proceeds to locate the ledge under suspicion, and establishes his claims, possibly giving his friends a chance to establish similar claims. (The land is, in nearly all cases, owned by the United States Government.) At a certain time the news of the "strike" is permitted to be made public, and a considerable degree of interest may be aroused among miners in a more or less widely extended region. If the story of the strike is a good one and well told, there will be, in the course of a few days or weeks, a great rush to the new camp. The neighboring mountainsides are prospected in every direction and hundreds of claims may be located in the vicinity of the original discovery. For a time almost any prospect has a market value, for nobody knows what riches it may hold. The rich ores found in a few claims serve to radiate a glow of hope over the whole camp. The enthusiasm is contagious and, for many people, irresistible.

In the course of a few months the camp may possess a few hundred or a few thousand people, nearly all men—prospectors, promoters, miners, carpenters, other skilled workers, speculators, hotel and boarding-house keepers, merchants, teamsters, engineers, lawyers, doctors, saloon-keepers, and gamblers. In the early days such a camp might be established in a region previously unpopulated and consequently without organized government. In such cases the maintenance of order might be secured for a time by self-appointed committees which assumed power to execute summary justice when necessary. In any case some regular machinery of government would be necessary at an early date and this would call for revenue. Evidently the ordinary property tax is not available for a situation of this kind. The machinery of the property tax is slow and the camp needs revenue at once. Moreover, nobody knows anything about the value of the most important property—that is, about what its value will be six months or a year later at taxpaying time. The claims may be worthless and the personal property may be removed before taxes are payable. A tax on production of ore is impossible because little or nothing is being produced. Prospecting, testing, exploration, development work, and the installation of machinery may be preliminary to important production, but that lies in the uncertain future.

Under these circumstances the general business license is the most available source of revenue. It has several very marked advantages. It is prompt in action, since the license must be paid for in advance. Since it taxes consumption and mining operations indirectly, it taxes everybody, and this is fair where all property values, with the exception of the imported consumable commodities, are mere hopes, where nobody knows who will be the millionaire and who the pauper a few months hence. Furthermore, since the men who ultimately pay the tax under such conditions do not know they are paying it, there are no objections on their part.[1] And, finally, no matter how the mine may turn out, the merchants, stage drivers, freighters, saloon-keepers, and gamblers may be making large profits for the time being, and it is in accordance with the sense of justice of the community that they pay the taxes, as they do in appearance.

In the course of a few months or years, if it becomes evident that the hopes of the camp are delusive, the population moves to the next place, and if the license system has been applied vigorously, in connection with other taxes, the special bills for government are paid and no very large items of debt are left to be paid by the scattered farmers and stockmen who may own property in the vicinity.

If, on the other hand, the strike makes good, the camp changes its character and in the course of two or three years begins to take on the characteristics of permanence

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[1] Since the wages paid in a new camp are determined to some extent by the cost of living, it is probable that the incidence of such license taxes rests in part upon the mine owners who pay it in the form of higher wages and higher prices for materials.

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as permanence goes in mining camps. The second stage of development is at hand. Tents give way to houses, many of which are more than rough lumber shacks, and some of which are well finished. Good substantial business blocks are erected. Real estate has a value of some degree of stability—a sufficient degree for purposes of taxation based on annual assessments. The production of the mines may be estimated with some degree of accuracy for a year in advance. Business profits are more reliable but less spectacular. In general, conditions have come which make a property tax and a production tax feasible. Since many of the business men and workers who originally came without their families have now established homes, there is need for schools and schoolhouses. Perhaps the new camp is the most important place in the county and so it becomes the county-seat, and a new courthouse and a jail are built. A fire department is established and the streets are improved. All in all, a considerable revenue is needed, for all things come high in a prosperous mining camp, and sound policy demands that practically all expenditures be met by means of taxes—that no bonds be issued except for very short periods—periods not exceeding the assured life of profitable mines. Because of the necessity of larger revenues it is difficult to abolish any old taxes, so the license system and the general property tax continue side by side with the tax on the proceeds of mines.

One fact stands out preeminent. As long as the mines continue to be big profitable producers, all other sorts of business are prosperous and the camp is able to contribute largely toward the public revenues.

In the course of time—perhaps three or four years or, may be, ten or twenty years—the rich ores are removed from the mine and the period of decline begins. Most of the workmen are laid off and they leave for new "diggings." Naturally all classes of business men suffer through the loss of customers. The mines may still produce a small amount of ore, sometimes at a small profit, or possibly at a loss, the difference being paid by the stockholders who still have hopes that another bonanza will be discovered. At this stage public revenues are raised with difficulty. The value of all forms of immovable property may be almost negligible. Labor is irregularly employed. It sometimes happens that property is assessed at much more than its selling value and at the same time the local tax rate may be extremely high.

The above description applies only to the more important camps. Many mines, though developed and operated for several years, never become profitable, although it may pay the owners to remove a certain amount of the better ore after they have incurred the expense of development. Many small mining camps never call for any special governmental organization. Some very profitable mines have been operated without any excitement connected with stock promotion or speculation. Some mines are abandoned pretty promptly when they cease to be profitable.

The early spectacular development of the gold and silver mining followed by its decline and by the slower and more stable growth of livestock interests and. more recently, by a more diversified economic development including both mines and live stock, is reflected in the following statistics of population:

POPULATION OF NEVADA FROM 1860 TO 1917 (INDIANS EXCLUDED)

1860[1]	6,857	1880[1]	59,463
1861[2]	16,374	1890[1]	40,605
1864[3]	50,000	1900[1]	37,119
1870[1]	42,468	1907[3]	90,000
1875[4]	52,540	1910[1]	76,635
1877[3]	70,000	1917[3]	85,000

TRANSPORTATION

The Central Pacific Railroad, completed in 1869, has been of the highest economic importance to the State, not only as a transportation agency, but as a taxpayer as well. Separated from the rest of the world by high mountains and by deserts and possessing no navigable waters, Nevada's need for transportation agencies was very great. Moreover, the peculiar character of the industry of the State has emphasized the dependence on railroads. Nearly everything produced in Nevada is exported and the greater part of all that is used—food, clothing, lumber, fuel, tools, machinery—is imported.

At present there are three transcontinental railroads passing through the State and a number of lines of local importance reach some of the more important mining and agricultural regions. Taken as a whole, the railroads have contributed greatly to the economic and financial stability of Nevada, creating in large measure the values of mines and of agricultural and grazing land, and contributing directly to the public revenues beyond any other single interest. So unequal is the geographical distribution of resources and of wealth in Nevada that it sometimes happens that the chief property of a county is the railroad running through it. In several counties the railroads have paid over sixty per cent of the county tax—in one case as much as sixty-nine per cent. In one instance the building of a railroad within its borders rescued a county from a long-standing failure to meet its interest obligations.

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[1] U. S. Census.

[2] Territorial Census.

[3] Estimate based on number of votes, school census, and other data.

[4] State Census.

Any just view of taxation in Nevada must take into consideration these peculiar economic conditions: (1) The State has had a very small and unstable population at all times. (2) Its industrial development lacks diversification and its chief industry, mining, has been very unstable. (3) The agricultural lands are of very small area and they are found in large holdings and in a low state of cultivation. (4) The transcontinental railroads serving a wider region possess greater stability of value and they have contributed the most important element of stability to the financial system of the State.

CHAPTER II

TAXATION IN THE CONSTITUTION

Nevada had two constitutional conventions preceding its admission to statehood. The first convention met in 1863 and the constitution formulated by it was rejected by the people at the ensuing election chiefly on account of matters relating to taxation, the article on this subject being unsatisfactory to the mining interests.[1]

Most of the early mining population of Nevada had come from California where it had been the custom not to tax mines, although the constitution of that State provided for a uniform tax on all property. The general property tax was an impossibility in the case of the placer claims, which alone were mined in the earlier years, because of their very transient value. The valuable claims of assessment time might be worked out and worthless by taxpaying time. Later the custom was carried over and applied to quartz-ledge mines, even though they had greater stability of value.[2]

The people of Nevada were, therefore, familiar with the exemption of mines, and such is the influence of custom in determining men's ideas of justice that it is probable that mines would have been exempted in Nevada without any serious discussion had there been sufficient property of other sorts to bear the burden of taxation easily. But the Nevadans were also former residents of the eastern part of the country where they were familiar with the general property tax and where its justice was popularly regarded as axiomatic. Consequently the nonmining interests, when weighed down by an excessive burden of taxation due to the exemption of the mines, turned to the theory of the general property tax as a means of equalizing the burden. This tendency was strengthened by the fact that two efforts on the part of the Territory to secure revenue from the mines through a production tax had not met with much success on account of the opposition of the mine owners.

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[1] It provided for the taxation of mines under the provisions of the general property tax.

[2] Statutes of California, 1857, p. 326.

In view of the previous opposition of the mine owners to taxation of any sort, and in view of the predominant power and influence of the mining interests, it was pretty evident to the members of the convention that the only way to make sure of a revenue from the mines was to include a specific and unequivocal requirement to that effect in the constitution. The following article was adopted:

> The Legislature shall provide by law for a uniform and equal rate of assessment and taxation and shall prescribe such regulations as shall secure a just valuation for taxation of all property both real and personal, including mines and mining property; excepting such property only as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes.[1]

There were some people who opposed statehood because of the smallness of the population[2] and because of the lack of stability in the chief industry of the Territory and because of the lack of agricultural resources. There was also a degree of mistrust of the character of the men likely to exercise power under the proposed state government. But the chief opposition, the effective opposition, arose from the fear of taxation. The organized fight was directed mainly against the specific mention of mines in connection with the general property tax.[1] The opposition of the few small agricultural districts, which were situated, for the most part, in non-mining counties not far distant from the mines, was based on their belief that they had little or nothing to gain from statehood except higher taxes. Consequently the constitution was rejected by a large majority, every county giving a majority against it.

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[1] Printed in proceedings of the second constitutional convention, p. 30.

[2] The population was, in 1860, 6,857; in 1861, 16,374. The estimated population in 1863 was 50,000.

THE SECOND CONVENTION

Notwithstanding the large vote against statehood in 1863, a second convention was called the following year—this, too, in the face of a decrease in the production of the leading mines and of a great shrinkage in the value of mining stocks and of other mining property.[2] The Government at Washington was anxious to secure the one additional vote necessary for the adoption of the amendment to the United States Constitution prohibiting slavery and, to this end, it appeared necessary to admit a new State. Locally, the sentiment had become more favorable to statehood on account of the inadequacy of the territorial courts. Apparently, the depression in mining activity in 1864 was due in considerable measure to the large amount of litigation and to the delay in such litigation on account of the congestion of the court dockets.[1] There was also a feeling that the Judges appointed by the Federal Government were incompe-

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[1] "Then, in regard to the basis of revenue, I think it unmistakably apparent that the last constitution was rejected because the mines were taxed; there can be no question as to that proposition. Now, if there is to be a constitution submitted to the people, leaving that clause out, or recommending the proposition that the mines shall not be taxed, I think it would undoubtedly be satisfactory to the people in that regard." Mr. Dunne in *Constitutional Debates*, p. 10.

All references to the *Constitutional Debates* are to the debates of the second convention, the debates and proceedings of the first convention not being published.

[2] "But I do not believe that it is right to do any such thing as to tax the mines at their market value. Why, sir, what would have been the result in the past year if we had taxed all our mines at the full market value which

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they bore at the time of assessment? We then assessed the Gould and Curry at six thousand dollars per foot, while now it is worth fifteen hundred. * * * Savage sold for five or six times as much then as now; Ophir was worth four thousand dollars, and it is only worth seven hundred now. Pride of the West was sold for two hundred and seventy-five dollars then, while now it is begging for purchasers at two dollars a foot; Daney was selling readily at that time for five hundred dollars and now it ranges from forty to sixty dollars; Wide West not long since was five hundred or six hundred dollars, while now it is sold at forty dollars or thereabouts." Mr. Chapin in *Constitutional Debates*, p. 228.

[1] "Again, there are now on the printed calendar of the District Court in Storey County nearly four hundred cases and more than one-half of those cases are exclusively mining cases, seventy-five of which, at the outside, will occupy three times as much of the time of the court as all the rest put together.

"There is a dark shadow hanging over our county and, I think, also over many other counties, on account of the difficulties in the way of litigation. Cases cannot be reached on the dockets of our courts, probably for a long time to come. There are, in our county, clouds upon the titles of our surface property, and also upon our mines, which, on account of the difficulties in the way of litigation, cannot be cleared up. Sir, I verily believe that if by the fiat of the Almighty, those cases could be reached today and cleared from the dockets of our courts—if those clouds could be cleared up from the property, both the mining and surface property of Storey County—that county would be worth five millions of dollars more than it is today." Mr. Collins in *Constitutional Debates*, p. 326.

"I went into the canvass and opposed the constitution last year. * * * But, sir, since that time, I have seen so many of the evil workings of a territorial government like ours situated so far distant from the central government, to which men are looking for appointments; I have seen, in our judicial department, such an extraordinary lack of ability to come up to the requirements of our conditions, in the men who have received appointments in that department, that I have come to the conclusion that some remedy is absolutely demanded. Nor is it alone a lack of ability on the part of our tent and venal.[1] It was believed that the only sure way to secure relief from this situation lay in the admission of Nevada to the Union as a State.

The delay and uncertainty incident to litigation is a handicap to any business, but it is probable that no other industry suffers so seriously from this cause as does gold and silver mining. It is said that camps which, otherwise, would have been prosperous have been destroyed through litigation. In any case such troubles added an element of irregularity to the demand for labor and to business activity of all forms. The depression of 1864 appears to have convinced even the farmers of their economic dependence upon the mines, for in the autumn of this year of hard times they supported a constitution whose provisions relative to taxation were less favorable to themselves than those of the constitution which they had rejected the year before.

The second constitutional convention began its work by adopting the work of the first convention as a basis for its deliberations. Since the personnel of this convention was in part different from that of the previous one, there

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Judges. Of our three Judges at *nisi prius*, at this time, one is sick and the others have absented themselves, and thus have blocked the wheels of justice; so that in reality we have no courts at all; although I know and every lawyer knows that we have interests in litigation so vast in importance that the parties interested in them could almost afford to pay the expenses of a state government for one year if by that means they could have their rights judicially determined. This is what impels me to favor a state organization. It is to obtain the power of electing our own Judges, and just as many of them as we want, to transact our criminal and civil business." De Long in *Constitutional Debates*, p. 13–14.

[1] There was another cause that exerted a powerful influence upon the public mind at this time, it being openly and with persistence charged by the press that one of the Supreme Judges of the Territory neglected his duty and rendered decisions favorable to the highest bidder for cash. About four thousand names were signed to a petition asking the whole bench to resign. Angel, *History of Nevada*, p. 85–86.

was considerable discussion relative to a number of questions, but, in the end, no important change was made in the former proposed constitution except in Article X relating to taxation. No other question was debated at so great length nor with such deep interest. It was generally conceded that the whole issue of statehood turned on this question. Whatever may have been the merits of the respective arguments, the voting strength lay with the mining interests, and an article exempting mines and mining claims from the operation of the general property tax and providing for a tax on the proceeds of mines was adopted.

On account of the important place which the taxation of mines occupied, not only in the constitutional conventions, but also in early legislation and litigation, and, furthermore, because the method of taxing mines in Nevada constitutes an exception to the customary provision establishing the general property tax, it may be worth while to consider in some detail the general situation giving rise to this exception and to the arguments for and against it in the constitutional convention.

The main facts of the situation were pretty well agreed upon. Here was a territory of great extent and scanty population with but one basic industry, gold and silver mining. All other industries were dependent upon mining and mining alone. Merchants, tradesmen, and teamsters were as truly and almost as directly dependent upon the mines as were the miners themselves. What little agriculture there was, owed its existence to the demand of the mining camps for hay, vegetables, and milk and to the high prices of these commodities due to the absence of railroads. Industrial activity of all sorts and all property values increased and diminished directly and immediately as mining activity waxed and waned. Furthermore, the mining of gold and silver, always characterized by great instability, was, at that time, uncertain in the highest degree. The high cost of operating mines, due to the less advanced state of technical science and to the absence of railroads, made it impossible to use low-grade ores profitably, and the instability of mining increases rapidly as the lower grades of ore lack availability. If anything was needed to add to the speculative character of the industry, that need was supplied by the multiplied litigation partly inherent in the early stages of mining development and partly due to lack of suitable laws and a body of judicial decisions clearly defining the rights of mine owners.

Of the hundreds of mines and mining claims which at one time or another had a market price, only a few turned out to have real value in the sense of ability to pay to the operators something in excess of the cost of development and operation. In many cases the expenditure of large sums of money in development work served only to demonstrate the worthlessness of the claim. Sometimes a mine produced ore in sufficient quantities to pay in whole or in part for the development expenses in addition to the cost of operation. A few were large producers, yielding millions of returns in excess of all costs. According to statements made on the floor of the convention, there was at that time no mine outside of Storey County which was paying dividends, and in that county there was only one paying large dividends. Even in the case of a mine for the time being profitable it was impossible to estimate its value for the future with any approach to accuracy. In short, the market value of a mine represented, in the main, a combination of hope, guesswork, and speculative manipulation, and there was little or no necessary relation between the market value and the actual value as measured by capacity for future profitable production.

Under these conditions it was natural that the great numbers of owners and shareholders in unimproved mines should feel that it was unjust to tax their hopes. A man may be willing to pay something for a mining claim and to make a further investment in its development while as yet its value is problematic, and at the same time he may hold firmly to the view that taxation should be deferred till there is a known value. This view derived support from the fact that the rest of the business community was deriving a certain and immediate profit from the mining man's investments in a hazardous enterprise. He might lose all, but the merchants, farmers, tradesmen, and laborers might be sure of their gains derived through his expenditures. Since the people generally were investors in mining shares, the justice of this view was pretty widely conceded, and many even held that the mines should be wholly exempt from taxation.

While the owners of the big profitable mines could not, of course, advance this consideration as a ground for the exemption of their own property, it appears that they were more than willing to escape taxation under cover of sympathy for the poor prospector. If the situation could be sufficiently confused in the popular mind it would be possible for all to escape together.[1]

On the other hand, there was but a small amount of property in the Territory aside from mines, and if mines should be made exempt from taxation the burden of supporting a state government would be unduly onerous upon other interests. It was maintained that the small property interests of the Territory could not bear the burden and that, inasmuch as the mining interests alone needed a state government, they should not be unwilling to bear their share of the expense.[1]

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[1] "I admit that a great deal was said—and very ingeniously said, too—against the policy of taxing a hole in the ground, and bedrock tunnels and all that, and about legislating against the 'poor miner' by the men who claimed to represent the 'poor miner' particularly; but that 'poor miner' was a humbug and a myth. He has been aptly pictured as holding in one hand a number of shares of Gould and Curry stock, a like amount of Ophir stock in the other hand, and a quantity of Savage stock protruding from his pocket behind; with a rotund belly and a hawk nose, and dressed like a regular San Francisco 'Cent-per-cent.' That is the poor miner who was talked about so much. The truth is that the miners who are proposed to be protected in this way are those men who never had any interest in our community—men who do not live here at all. Now I should be willing to do anything to aid the laboring classes—anything to aid that class of poor men which my honorable friend from Storey, Mr. William M. Stewart, so eloquently depicted in the last convention, men whose hopes, he said, were about to be taxed." Mr. Collins in *Constitutional Debates*, p. 325.

Among the opponents of a tax on mines in the first convention was William M. Stewart, who later became United States Senator from Nevada. Mark Twain, at that time a reporter for the Territorial Enterprise, in a humorous sketch represents Stewart as saying:

> "Mr. President: I insist upon it, that if you tax the mines, you impose a burden upon the people which will be heavier than they can bear. And when you tax the poor miner's shafts and drifts and bedrock tunnels you are not taxing his property; you are not taxing his substance; you are not taxing his wealth—no, but you are taxing what may become property some day or may not; you are taxing the shadow from which the substance may eventually issue or may not; you are taxing the visions of Alnaschar, which may turn to minted gold or only prove the forerunners of poverty and misfortune. In a word, sir, you are taxing his hopes, taxing the aspirations of his soul, taxing the yearnings of his heart of hearts." Quoted from Angel's *History of Nevada*, p. 82.

As the discussion proceeded in the convention several practical proposals were made and upon some of these a vote was taken. These proposals may be stated briefly as follows:

> 1. Tax all mines and mining claims under the general property tax like all other property at its market value. This represented the view of the agricultural delegates and of a few others.
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> 2. Exempt mines and mining claims having a value less than a fixed minimum and tax all others under the general property tax. This represented a concession made by some proponents of the general property tax to the friends of the "poor prospector."
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> 3. Tax all property alike, but make no specific mention of mines in the constitution, since the section would mean the same with the omission, and it would not be offensive to the mining interests. This proposal was made by a member from Storey County where mining was the dominant interest, and there was some suspicion that it was made with the expectation that if it were adopted the mines would be exempt, following the custom of California under a similar constitutional provision.[2]
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> 4. Exempt the mines, but tax the gross proceeds. The aim of this proposal was to secure some revenue

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[1] "Now, these gentlemen submit to us, who represent the few cabbage patches there are in the Territory, this proposition: 'We will go into a state organization, provided you will pay the expense.' I consider that as the real proposition, divested of all the talk. Who is it that wants a greater number of Judges? Why, the mining interests." Mr. Lockwood in *Constitutional Debates*, p. 355.

[2] "I do not want to leave this question one of doubt and uncertainty; that is, in such a condition as will be calculated to deceive the public mind. I repeat, sir, that unless all property that has a cash value in the market is subjected to taxation, unless we have a government founded on those immuta-

from the productive mines, but to exempt the non-producer—the "hopes" of the "poor prospectors."

5. Exempt the mine, but tax the net proceeds. This represented a concession to the producer who might be producing considerable ore, but at little or no profit. It placed the burden on the profitable mine.

6. And finally there were a few members of the convention claiming to represent a considerable following outside who frankly opposed all taxation of mines on the ground that such exemption was good public policy because the mines supported all other industries. Most of these members were not seriously opposed to a tax on the net proceeds.

Among the members of the convention there was a considerable number of able lawyers and the debate was carried on with a high degree of dialectic skill and with considerable knowledge of the procedure of taxation in California and some of the Eastern States. The members generally showed familiarity with the local economic and financial conditions. Sometimes, following the lead of custom, or influenced by peculiar conditions and special interests, they built their arguments on sound and clearly conceived principles of public finance,

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ble principles of justice, equity, and right, I, for one, want to be far distant the day when we shall adopt a state government. That is the issue which I wish to have presented, and I do not want it confused or mystified by language which may be susceptible of different constructions. I will not consent, by the adoption of the language of the California constitution, and the consequent precedent afforded by the example of that State, to appease the consciences of gentlemen who shall be sent here as members of our Legislature, and, with uplifted hands, swear before Almighty God to support the constitution. I do not wish to adopt such language that they may feel justified, after taking that oath, in turning around and palpably violating the express provision of the instrument they have sworn to support, because, forsooth, the action of California, under a similar constitutional provision, has, for fourteen years, been of the same character." Mr. Johnson in *Constitutional Debates*, p. 319.

although there is no evidence of any previous systematic study of this subject by any of the members. In other cases there was an approach to sound doctrine in statements which lacked the qualifications and limitations necessary to their full acceptance, while in still other cases theories of no validity were advanced with the utmost assurance and without contradiction on the floor of the convention.

The advocates of the general property tax with mines included made no effort to show that such a tax is just, either by reference to fundamental principles or to existing conditions. Its justice appeared to be self evident.[1] Their task as they conceived it was not to prove the merits of their contention, but to expose the subterfuges of the opposition. Nor did the opposition directly attack the theory of the general property tax. That all property save mines should be taxed under the provisions of a general property tax was conceded by all. Indeed, there is no evidence that any one even thought of any other plan. If there is any one thing upon which students of public finance are agreed today it is that the general property tax is bad in many respects in principle and in practise, but it was not under general criticism in 1864. The position of the mining interests was that there should be an exception to the rule in the case of mines on account of peculiar conditions.

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[1] "The first proposition I lay down—and I shall endeavor to confine myself to three propositions—is that all species of property are equally subject to taxation, and that the failure of any body politic to make each and every species of property a subject of taxation has the effect to create privileged classes—a species of legislation which is entirely at variance with the spirit of our institutions. The proposition itself, stated in plain terms, is one so self-evident that it seems almost a work of supererogation to attempt to dilate upon it. Now, sir, it is contended in direct terms by some of the gentlemen on the other side of the question that the mines are not properly subjects of taxation. I am as well aware as any gentleman in the convention that such has been the general view of the question ever since the mines became so important a feature in the resources of our country, especially upon the Pacific Slope. But I have listened attentively to and read carefully the immense number of arguments which have been advanced to sustain that proposition, and nothing I have ever yet heard or ever yet read has tended to change my views on the subject or convince me that it is not the duty of the law-making power to compel that particular species of property to contribute to the support of the Government as much as it is to compel the house, the ranch, the ox, the horse, the ass, or any other species of property to contribute to the support of that Government. * * * I shall content myself * * * with simply asserting that proposition, leaving any one who may come after me to refute it if he can." Mr. Hawley in *Constitutional Debates*, p. 337.

At various points in the argument allusion is made to the fact that other industries were supported by the mines and in one place the notion that taxes on property in general were shifted to the mines was set forth definitely.[1] This is offered as a reason for exempting mines from the operation of the general property tax, the speaker favoring a tax on the net proceeds which would be less burdensome. The counter argument did not either admit or deny the shifting of taxes to the mines, but maintained that if the miners paid the taxes as claimed, they might as well pay them directly.[2]

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[1] "He maintains that the mines are not taxed now, and I say that they are taxed in every way. Suppose the case of a merchant who sells goods to the miner—what does he charge? Why, a profit above the cost. But what is the cost? It is not merely what he gave for the goods, what he paid for the freight, the rent of his building, and his own profit alone; but he puts in also the taxes. * * * So it is with the agriculturalist. He raises a barrel of cereals and sells it in the market and, in fixing the price, he puts on whatever it cost him in every way, and among other items is his taxes. * * * You are taxed, but you get it back from the miners, and you will continue to do so. * * * But for the mines, all your stores would be removed, your farms would dry up and be abandoned, and your wagons would stop in the streets or be turned elsewhere. Every man you see * * * looks directly to the miner. * * * Every one charges, in the disposal of his wares and goods, sufficient to cover his taxes. * * * He makes the price large enough so that the miner shall pay it back to him." De Long in *Constitutional Debates*, p. 335.

[2] "It seems to me that gentlemen are not consistent in regard to it. In one part of their argument they say that the mines pay for everything—that

In spite of the expressed desire of many of the members to have the clause relative to the taxation of mines perfectly clear and definite, and so that no important discretion would rest with the Legislature, there were at least three important questions left to be settled by legislative action or judicial procedure: (1) Should the taxation of mines be based upon net or upon gross proceeds? (2) Should the rate upon proceeds be the same as the general property tax rate? (3) Should the proceeds of mines be taxed at a uniform rate or could the Legislature establish a graduated rate according to the profitableness of the mine?

The first of these questions was debated at considerable length, but the debate served to confuse rather than to clarify the thought of the convention. In 1863 a territorial tax had been levied on the "gross proceeds of mines."[1] Apparently this term was commonly understood to include the total value of bullion recovered from the ores, but an opinion of the District Attorney of Storey County held that the gross proceeds included only the value of the untreated ore at the mouth of the mine. This decision reduced the value of "gross proceeds" in Storey County by about sixty per cent for 1863.

Apparently it was the desire of a considerable number of members, chiefly from the farming districts, when it was certain that only the proceeds were to be taxed, to make sure the tax should be collected on the entire pro-

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if a man raises a cabbage, the miner pays for it and pays all his taxes, too—that ultimately everything comes out of the miner. Then what is the objection to directly taxing the mines? * * * What is the difference? I do not know why it is objected to unless there is some 'gum-game' about it—unless men are to have wool pulled over their eyes." Mr. Nourse in *Constitutional Debates*, p. 372.

[1] See under heading "Taxation of Mines in the Territory," in Chapter IV.

duction, on the value of the bullion produced. This view had the support of some of the members from the mining counties—possibly enough to have made a majority had they been able to get around certain difficulties in terminology.[1] "Gross proceeds" was unsatisfactory on account of the opinion previously mentioned. "Bullion," favored at one time, lost favor with some because it was represented that this would have the effect of exempting some of the very rich ores which were shipped out of the State for reduction.

At this point it was cleverly argued that the use of the word "proceeds" without qualification would give the Legislature power to tax the entire product, and that the Legislature would be sure to do this in order to secure sufficient revenues.[2] This view appeared to win over some of the confused advocates of a gross-proceeds tax, and on the vote the "gross-proceeds" advocates lost.

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[1] "I would ask if the convention cannot be induced to insert the word 'gross' in this article, before the word 'proceeds.' It is all so very vague now that it ought not to be satisfactory to either side of the house. I think that gentlemen representing the mining interests ought to extend that courtesy, at least, to us who feel deeply wounded in the matter. Money will be used in the Legislature and we all know for a certainty that it would be possible to convince the Legislature that only the net proceeds are intended here. We all know what a corrupt body a Legislature may be made by use of money, and a sufficient amount of money used for the purpose may suffice to make them believe that the article means net proceeds, or gross proceeds, or whatever proceeds men may choose to construe it to mean. And in my opinion there is not a possibility, under that provision, of getting a dollar of revenue from that source." Mr. Haines in *Constitutional Debates*, p. 500.

[2] "The way the language reads is, that the proceeds of the mines shall be taxed. Now, what are the proceeds of a mine? That term is general and broad, and, in my opinion, it embraces anything and everything that proceeds from a mine and is valuable. And you will find that the Legislature will tax everything of that kind. I ask gentlemen if they do not know that to be the fact. Do they not know that everything which issues from or comes out of a mine * * * your Legislature will tax under that clause as it now stands? It may be bullion, it may be ore which is sent out of the State; it may be first-class ore, or second-, third-, fourth-, or fifth-class ore; but whatever it is, under that class it must be taxed. * * * I have the best reasons in the world for knowing that such will be the case, and one of my reasons is that the very life of the Legislature, or, at least, their bread and butter will depend upon it." Mr. Frizell in *Constitutional Debates*, p. 518.

On the other hand there were a few members who desired to make a definite provision for the taxation of net proceeds only.[1] They believed that it was unjust to tax gross proceeds, and they appeared to believe that in the absence of a constitutional limitation the Legislature would put the tax on the gross proceeds. In the end, however, these members were content to support the clause providing for the taxation of proceeds, and to leave the controversy to be settled by the Legislature.

A further reason for this course lay in a desire to avoid further controversy in the convention and in the subsequent campaign on the adoption of the constitution. With the constitution fixing the tax on the "proceeds" each side was able to hope that the Legislature would accept its interpretation. Not very much attention was given to the question of the rate of taxation on the proceeds—whether it should be the same as the rate of the property tax or whether it might be higher or lower—but at least three members of the convention declared it to be their understanding that the article as adopted did not require the rate to be the same, and no member argued for the other interpretation.[1]

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[1] "Then again, if you are to tax the mines on their production, I say the fairest way will be to tax them, not on the gross proceeds, but on the net proceeds. Here is a mine from which they are taking out bullion to the tune of say forty, fifty, sixty, or perhaps a hundred thousand a week, and every dollar they take out, inspired by the hope of better times coming, costs them perhaps one dollar and ten cents. But, on the other hand, here is another mine, side by side with that, and every dollar taken out of the second mine costs the owners only six bits. And yet both would be charged the same under this taxation of the gross proceeds. I ask if that is dealing justly by the miners. It seems to me not. The fairer way would be to tax the net proceeds." Mr. Collins in *Constitutional Debates*, p. 417.

"A provision for a tax upon the proceeds of mines without even the words 'net proceeds' incorporated in it is an outrage." Mr. Tozer in *Constitutional Debates*, p. 418.

One gentleman advanced the idea that, since the proceeds alone were taxable, the provision for equality demanded that the rate be higher than the rate on property, and he introduced an amendment to make this definite, but the amendment was defeated, some of the members giving as their reason for voting against it their belief that the Legislature would have the power to establish a different rate without a specific grant in the constitution. When, however, the Legislature, acting upon this interpretation, in 1865 fixed the rate of tax upon the proceeds of mines at a rate much lower than the rate on property, the Supreme Court decided that this was unconstitutional, that it was the intent of the constitution to tax property and the net proceeds at the same rate.[2]

On the final vote in the convention on the adoption of Article X, it was supported by the delegates representing the mining counties and opposed, in the main, by the representatives of the agricultural districts. When submitted to the people the constitution as a whole was adopted by a large majority, even the agricultural counties voting in the affirmative. The argument that statehood would restore prosperity through the creation of courts able to settle cases in litigation was effective with farmers as well as with miners.

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[1] See *Constitutional Debates*, pp. 443–444 and 520.

[2] See discussion of this decision, Chapter IV.

Article X of the Constitution

> The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal or possessory,[1] except mines and mining claims, the proceeds of which alone shall be taxed, and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes.

MINOR CONSTITUTIONAL PROVISIONS

According to the classification implied in the constitution of Nevada there are three sources of revenue from taxation required by specific mention and others permitted by silence. A general property tax with mines excepted, a tax on the proceeds of mines, and a poll-tax are required, and, in the absence of any restriction to the contrary, license taxes and other indirect taxes may be levied.

Unpatented mines and mining claims are constitutionally exempt from the general property tax and the Legislature may exempt public property and property used for educational, literary, scientific, or charitable purposes. The Supreme Court has held that the rule of uniformity applies to the general property tax and to the tax on the proceeds of mines and that the rate on the proceeds of mines must be the same as the rate on property. The poll-tax must be not less than two nor more than four dollars for each male person between the age of 21 and 60 years. The constitution makes no mention of license or other indirect tax and, in the absence of any restriction, the Legislature is held to possess very wide powers, being limited by the "due process of law" clause of the state and federal constitutions, by certain federal constitutional provisions relating to the regulations of commerce, by certain acts of Congress, and by certain broad principles inhering in the nature of constitutions.[1]

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[1] Ordinarily the title to the land on which mines are located is retained by the United States Government, the locator of the mine owning not the land but a mining claim. There appeared to be some doubt in the minds of some of the members of the constitutional convention as to whether mining claims were either real estate or personal property. Hence the term "possessory right" was introduced to make sure of the inclusion of such claims for purposes of taxation. By later action the convention exempted mines and mining claims from taxation, so that the use of the term has no practical significance except for unimportant possessory rights to surface real estate and such rights could be taxed as well under the head of real estate.

The following provisions relative to taxation are found elsewhere in the constitution as originally adopted:

1. Special or local laws relative to the assessment and collection of taxes are forbidden.[2]
2. An animal tax sufficient to cover the estimated expense of the State for a fiscal year and to pay any deficiency from preceding years must be levied.[3]
3. A special tax of not less than one-quarter mill or more than one-half mill on the dollar was required to be levied for the support of the University and the common schools.[4]
4. The property of corporations is subject to taxation the same as the property of individuals except

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[1] See Cooley, *The Law of Taxation*, 3d ed., vol. 1, ch. 3.
[2] Constitution, Art. IV, Sec. 20.
[3] Constitution, Art. IX, Sec. 2.
[4] Constitution, Art. XI, Sec. 6.

that the property of corporations formed for municipal, charitable, religious, or educational purposes may be exempted by law.[1]

5. When the State creates a bonded debt it must, at the same time, provide for levying an annual tax sufficient to pay the interest semiannually, and the principal within twenty years from the passage of such law.[2]

CONSTITUTIONAL AMENDMENTS RELATING TO TAXATION

There have been three amendments to the constitution relative to taxation and each amendment embraced at least two changes. Before 1889 the constitution required the levy of a special school tax of not less than one-quarter of a mill nor more than one-half mill on the dollar. The amendment ratified in 1889 required a tax for this purpose not to exceed two mills on the dollar. The upper limit was raised and the lower limit was removed altogether.[3]

In 1906 unworked patented mines were made subject to taxation by an amendment.[4]

The original section of the constitution providing for a poll-tax apportioned it half and half to county and State. The amendment of 1910 devoted all of it to road purposes and left the Legislature free to apportion it to county and State as it might choose. It also repealed the clause permitting the Legislature to make the payment of a poll-tax a condition to the right of voting.[1]

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[1] Constitution, Art. VIII, Sec. 2.

[2] Constitution, Art. XI, Sec. 3.

[3] Constitution of Nevada, Art. XI, Sec. 6.

[4] A patented mine is a mine situated on land for which the United States Government has issued a patent. The title to the land is privately owned. Where a man owns a mining claim on government land, he must do a certain amount of mining or development work each year or the claim is forfeited. The owner of a patented mine retains his ownership like any other owner of real estate without reference to work. The object of the amendment is to encourage development work by taxing the idle mine.

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[1] Constitution, Art. II, Sec. 7.

The Legislature shall not pass local or special laws in any of the following enumerated cases—that is to say: * * * for the assessment and collection of taxes for state, county, and township purposes. *Art. IV, Sec. 20.*

The Legislature shall provide by law for uniform and equal rates of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal and possessory, except mines and mining claims, when not patented, the proceeds alone of which shall be assessed and taxed, and when patented, each patented mine shall be assessed at not less than five hundred dollars except when one hundred dollars in labor has been actually performed on such patented mine during the year, in addition to the tax upon the net proceeds, and also excepting such property as may be exempted by law for municipal, educational, literary, scientific or other charitable purposes. *Art. X, as amended in 1906.*

The Legislature shall provide by law for the payment of an annual poll-tax, of not less than two nor exceeding four dollars, from each male person resident in the State between the ages of twenty-one and sixty years, uncivilized American Indians exempted, to be expended for the maintenance and betterment of the public roads. *Art. II, Sec. 7, as amended in 1910.*

The Legislature shall provide a special tax, which shall not exceed two mills on the dollar of all taxable property in the State in addition to the other means provided for the support and maintenance of said University and common schools. *Art. XI, Sec. 6, as amended in 1889.*

The Legislature shall provide by law for an annual tax sufficient to defray the estimated expenses of the State for each fiscal year; and whenever the expenses of any year shall exceed the income, the Legislature shall provide for levying a tax sufficient, with other sources of income, to pay the deficiency, as well as the estimated expenses of such ensuing year or two years. *Art. IX, Sec. 2.*

All real property and possessory rights to the same as well as personal property in this State, belonging to corporations now existing or hereafter created, shall be subject to taxation the same as property of individuals; *provided*, that the property of corporations formed for municipal, charitable, religious or educational purposes may be exempted by law. *Art. VIII, Sec. 2.*

For the purpose of enabling the State to transact its business upon a cash basis from its organization, the State may contract public debts; but such debts shall never, in the aggregate, exclusive of interest, exceed the sum of one per cent of the assessed valuation of the State as shown by the reports of the County Assessors to the State Controller, except for the purpose of defraying extraordinary expenses, as hereinafter mentioned. Every such debt shall be authorized by law for some purpose or purposes, to be distinctly specified therein; and every such law shall provide for levying an annual tax sufficient to pay the interest semiannually, and the principal within twenty years from the passage of such law, and shall specially appropriate the proceeds of said taxes to the payment of said principal and interest; and such appropriation shall not be repealed, nor the taxes be postponed or diminished until the principal and interest of said debts shall have wholly been paid. * * * *Art. IX, Sec. 3, as amended in 1916.*

CHAPTER III

TAX ADMINISTRATION

The unit of local government in Nevada is the county. Most of the area of the State is not organized into civil townships, and where there is a civil township it exists for judicial purposes only. The Justice of the Peace and the Constable are the only township officers, and these, in so far as they are not compensated by fees, are paid out of the county treasury, there being no township taxes or funds. The County Assessor makes assessments for state, county, city, and school district taxation. The County Treasurer as tax collector collects state, county, city, and school district taxes. The county Sheriff collects license taxes for state and county purposes and to some extent for town and city purposes. This organization of financial administration stands out in sharp contrast to the system in use where the township is the unit of local administration, and it may be regarded as an adaptation to the conditions presented by a State of sparse and shifting population. The larger unit possesses a higher degree of stability than would the smaller.

There are sixteen counties in Nevada and their average area is nearly seven thousand square miles. Some of the largest counties have over sixteen thousand square miles each, or an area over twice the size of Massachusetts. For the most part, the State has a very sparse population and most of the land is still owned by the National Government, much of it being unsurveyed.

The privately owned land, consisting of about three and a half million acres, is found mainly along the chief rivers and in the mountains where the ownership of springs and creeks gives control of the grazing lands. Except in a few valleys the land is chiefly owned in large holdings, some of the largest having ~~over a~~ hundred thousand acres each. The Central Pacific Railway Company still owns 3,982,786 acres received as a grant for the construction of the road.

THE ASSESSMENT OF PROPERTY

From the standpoint of the development of administrative agencies of taxation, the history of the State may be divided into two periods, the second beginning in 1901 when the State Board of Assessors was created. In the first period the Legislature, in its efforts to provide for uniform and equal assessments for purposes of taxation as required by the constitution, relied wholly upon the action of county officers guided by general laws and with a system of penalties and rewards as incentives to honest and efficient assessments. Likewise dependence was placed on penalties to secure from owners true statements of their property. In so far as these penalties were enforcible only by the courts, we may call this the system of judicial control.

Beginning with the creation of the State Board of Assessors in 1901, the tendency of legislation has been to rely less and less on a system of judicial penalties and more and more upon central administrative agencies. Most of the old laws of the earlier period still remain on the statute books, but they are, in the main, dead-letter laws, while the newer agencies have been effective in an increasing measure. When this newer plan has had time to work itself out more perfectly and when the older laws are repealed or amended in harmony with the newer ideas, it may be called the system of administrative control.

ASSESSMENTS UNDER JUDICIAL CONTROL

It will not be necessary to present any detailed description of the earlier system. A brief characterization with some reference to its defects will be sufficient.

The County Assessor is elected by the people for a term of two years and, subject to the direction of the Board of County Commissioners in authorizing the expenditure for salaries, he may appoint one or more deputies for a period not to exceed six months. He is by law required to make diligent inquiry, to ascertain all property, to determine the true cash value, and to list and assess the property to the owners. He is required to demand of owners itemized and sworn statements of their property, but he is not bound to accept such statements as true, but must assess according to his judgment.

The law provides for penalties in abundance. It is full of teeth—sharp teeth, too. If an Assessor or deputy is guilty of neglect of any duty enjoined by law, he is subject to indictment and a fine of five hundred dollars. He is liable on his bond for the taxes on any property unassessed through wilful or inexcusable neglect, and it is made the specific duty of the County Auditor, County Treasurer, and the District Attorney to cause this law to be enforced. For the property holder there are penalties for failure to make a statement, and for false statements he is subject to a fine, imprisonment, and double taxation. It is made the specific duty of the Assessor to enforce these penalties by appropriate procedure.

The first impression one receives on reading the list of penalties is that it would be extremely unsafe for any Assessor to be negligent or for any owner of property to try to evade any of his lawful taxes. In fact, one would appear to be taking a great hazard in accepting the office of Assessor, so strict are the requirements and so heavy the penalties for failure. A little familiarity with the practical working of the system, however, leads to a modification of these hasty opinions. Many people have failed to make the statement required, and the writer has never heard of a case of any such person being punished as required by law, but, on the contrary, such persons frequently escape taxation in whole or in part on account of such failure.[1] Nor are the statements, when made, generally correct. There are certain sorts of property such as money, stocks, bonds, bank deposits, notes, and credits which are almost never listed, and who has ever heard of any of these people being indicted or punished for perjury? In other cases the count has been rather inaccurate, sometimes even land being omitted or the amount understated. The number of sheep and cattle returned to the Assessors has been much too low. The same is true of other classes of property. In fact, as one becomes familiar with customs of laxity which have persisted for long periods everywhere in the State, he wonders if, after all, the penalties are not rather innocuous—if the sharp teeth of the law do not belong to a harmless cast-iron watch-dog.

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[1] The following incident illustrates the point: The Assessor met a land owner and stockman on the street and invited him to call at the office and make out a statement. The stockman said he was busy and invited the Assessor to come to the ranch and assess the property. A second time invitations were extended and not accepted by either. Finally the Assessor did what the stockman expected him to do—he copied down the assessment of the previous year. The stockman in relating the incident to a friend said that he had saved taxes on ten or twelve hundred head of cattle by his failure to furnish the statement.

This account of how an assessment was made without a statement was given me confidentially by a merchant several years ago. The language is, as nearly as I can recall, in the words of the merchant: "The Assessor now assesses my stock at $5,000. It was only $500 for a long time, but one year a new Assessor just raised it to $5,000 and I made no complaint. You see it was like this: The Assessor would come around and sit down and we would visit a while. Then he would ask me what my stock was worth. I would say that I did not know exactly—that he could see it himself; that he could make his own estimate. He would say 'Well, how would $500 do?' I would say 'That suits me,' and he would put it down at that. The actual value of the stock is about one hundred and six thousand dollars."

In the earlier period there was much reliance on rewards for the faithful performance of duty on the part of the Assessor and the license collector. Before 1885 the Assessor was entitled to a commission of ten per cent on all poll-taxes collected by him and a commission of from two to six per cent on the personal property taxes collected by him—the personal taxes of persons owning no real estate. He was further entitled to three per cent of all tax on the proceeds of mines. More recently the Sheriff as license collector is entitled to six per cent on all license taxes collected by him. The Assessor as collector of the sheep license tax receives twenty per cent of all such tax. Doubtless these commissions were intended to serve as an incentive to efficiency. The commissions were large, particularly in the more populous mining counties. Possibly the rewards were in a measure effective, but when we see Sheriffs going on year after year accepting a license tax less than a quarter of what the law requires, and when we learn that a large proportion of men escape their poll-tax, we lose faith in the system of rewards.

The fact is that the whole system of motives—of penalties and rewards for Assessor and Sheriff—does not seem to be based on any clear comprehension of human nature, or at least it ignores some important social influences. The rewards and penalties are too individualistic, too simple to fit the situation. They appeal to the selfishness of men in a manner quite to the heart of the narrowest classical economist who so overemphasized the role of the little selfish motives among men. Strangely enough we sometimes find the law appealing to a motive so small and selfish that the average Assessor would be ashamed to acknowledge its influence, even to himself, while the larger social motive in some instances is on the side of evasion of law.[1] On the whole, the old idea of securing efficiency in assessments through appealing to the personal selfishness or to the fear of the Assessors through statutory rewards and punishments to be inflicted by judicial procedure has broken down in practise and it is not correct in its theory. Any man who can be elected as Assessor is a man who is governed by the ideas of his community as to what ought to be done. He must do what the effective moral forces of the community demand should be done, not what his pecuniary interest as receiver of commissions demands or what the penalties of the law may seek to enforce. The fact that some laws have been really bad has justified the Assessor in his own eyes and in the eyes of the community in winking at their evasion.

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[1] For example, a former law in regard to the taxation of state banks was of such a character that the Assessor was obliged to recognize that nonenforcement was not only in the interest of justice to the banks, but that it was in the interest of the business community in general.

Still another error common in the thought of the recent past was expressed in a public address by a prominent citizen. It was his view that the trouble lay in the character of the men chosen to be Assessors. He wanted a man who was an expert in the judgment of values, a sleuth in the discovery of property, a man of "unimpeachable integrity," a man with "no political affiliations, ambitions, hopes or fears, a man with no friends to favor, no enemies to punish, a man who would assess each piece of property at its true cash value." "Give us such men as Assessors and we will get equal assessments under the present law."

There are several difficulties in this view. In the first place it is doubtful whether there are any such paragons of virtue and wisdom. Even if there are a few, they would not be wanted as Assessors and they should not be made Assessors, since society would have more important uses for them. Moreover, if by some accident one such perfect individual should be made Assessor, it is certain that the strict enforcement of statutes which have been treated as dead-letter laws for long years, and the strict enforcement of good laws in some counties, while laxity continued in others, would work even greater inequality and injustice than exists at present.

On the whole, our Assessors are not a bad lot. They are as good as their average critic. They possess and deserve to possess in reasonable degree the respect of their communities. They are, as a rule, trying to do the right thing as they see it, and very often, by reason of their closer touch with the practical side of taxation, they see the situation more accurately in detail than do the makers of our constitution and laws. This is not to say that Assessors make no mistakes. They do make mistakes, sometimes big mistakes, but the mistakes are not to be charged so much to the particular Jones, Brown, and Smith who are the Assessors of today as to the system under which they work. It is certain that their predecessors made the same mistakes, and doubtless the same mistakes will continue to be made if the work is done under the same system. If we have the right system, we can get much better results with the kind of men there are in the world.

The practical outcome of assessment by local County Assessors as equalized by County Boards of Equalization without any agency for centralized administrative control was: (1) great general undervaluation; (2) great lack of uniformity as between counties and as between persons in the same county.[1] Each Assessor, believing that the others would undervalue property, felt that he must do it likewise in order to prevent his county from paying an unfairly large portion of the state tax, this tax being proportioned to the assessed valuation of the various counties. Moreover, the Assessors ordinarily lacked the information essential to the accurate assessment of public utilities, and in order to secure such information there was need for more legal authority and more expert ability. The small taxpayer, not having so much at stake, did not take the trouble to protest for equal assessments and so usually was assessed on a much higher valuation than the big interests. Large counties with a considerable mileage of railroads and other public utilities were able to secure sufficient local revenue on the basis of very low valuation, while counties with little property were obliged to assess at higher valuations in order to secure sufficient revenue for county and school purposes.

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[1] The following case may be taken as representing an extreme of tax evasion through undervaluation. The writer in the autumn of 1908 talked with a land owner in a certain county relative to the value of his property. The land owner was offering certain land for sale at $75 per acre and he maintained with the manner of conviction that it was fully worth the price. I found that the land was assessed at 25 cents an acre or one-third of one per cent of the value claimed. There was other property in this county assessed at least twelve or fifteen per cent of its value.

Assessments Under Administrative Control

The first abortive effort to centralize authority in assessing was made in 1891, when the Legislature provided for a State Board of Assessors and Equalization with broad powers—power to assess railroads, power to raise all assessments by counties horizontally; also power to raise the value of any specific class or parcel of property.[1] This board consisted of the Governor, the Attorney-General, and the State Treasurer. Through the action of this agency there was a pretty marked increase in the total valuations for 1891 and 1892. Apparently the board tried in good faith to make valuations correspond more nearly to actual values and to secure greater uniformity. It appears probable, too, that it was measurably successful. It is not improbable that the board made some mistakes—particularly in the horizontal raise by counties, since some of the property had been assessed high enough originally. From the standpoint of administrative organization the chief defect of this plan was that a very important responsibility was placed in the hands of three men whose time was mainly demanded by other duties and who were given no adequate means for ascertaining the facts necessary to a correct judgment. They were obliged to act on partial information and on certain assumptions which may not have been correct. Partly as a result of its mistakes, but perhaps more largely because of its efforts in the direction of efficiency which had aroused the opposition of certain large taxpayers, the board was abolished after an existence of two years. Needless to say, valuations fell immediately to the lower figures previously prevailing.

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[1] Statutes of Nevada, 1891, p. 56.

A second and more sustained and successful movement in the direction of centralized control of assessments began in 1901 with the creation of a body known as the State Board of Assessors.[1] This body consisted of the County Assessors who met annually to establish valuations on such property as in their judgment they were able to value more uniformly when acting collectively than when acting individually. The Governor of the State presided at these meetings and had a casting vote in case of a tie. This board in 1901 established the value of range live stock and of railroads.[2] In 1903 the law was amended in such a way as to make it the duty of the State Board of Assessors to establish the value of (1) all railroads including rolling stock; (2) all telegraph and telephone lines; (3) all electric light and power lines; (4) all cattle and sheep; and (5) all other kinds of property which, in the judgment of the board, it could value more uniformly than could the Assessors acting separately.[1] From 1901 to 1909, inclusive, the board met annually and fixed the value of railroads, of cattle, of sheep, and of certain other sorts of live stock. In spite of the mandatory character of the law in relation to telegraph and telephone lines and electric light and power lines, the board failed to fix the value of such property. The meeting of 1910 was notable because of Governor Dickerson's efforts to get higher valuations for the railroads and to secure action establishing valuations for the property of public-service corporations generally and especially for those mentioned in the law. The position of the Governor was that the law was mandatory and he was supported in this view by legal counsel. The majority of the Assessors held that they did not possess the information necessary to enable them to make just classifications and valuations of such property and, hence, that it would be better to leave such assessments to the various Assessors who could secure further information each for his own county.

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[1] Statutes of Nevada, 1901, p. 61.

[2] The action of the board in 1901 in fixing the mile value of the various railroads by specific mention was declared illegal by the Federal District Court on the ground that the board had not classified the property before fixing the valuations. (111 Fed. 71.) In the following year the board proceeded to classify the roads so that there was one road in each class.

To supply this lacking data the Governor proposed that the board should make use of information in the hands of the State Railroad Commission. A tabulated statement with considerable data relative to the value, not only of railroads, but of other public utilities, was submitted by the commission. Now the Railroad Commission, which had been created in 1907, had been securing data relative to valuations in the interest of rate regulation. To this work it brought more expert ability and it had the support of more adequate laws, and its information along certain lines was far more complete than the Assessors had ever possessed individually or collectively.

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[1] Statutes of Nevada, 1903, p. 95.

The representatives of the corporations opposed the use of such information on the ground that it was secured for another purpose. Since the purpose of the commission was to regulate rates for service, the corporations had estimated the value of their properties at a rather liberal figure. This was a means of justifying freight rates and other rates which the public considered excessive. Now, when they were contending for low valuations for the purpose of taxation, it was disconcerting to be confronted with their own valuations for rate-making purposes. Moreover, the Governor was able to quote from the decision of a federal court that the value of property for purposes of rate-making was the value for the purpose of taxation. He did not, however, propose that the property should be assessed at the full value as thus determined, but only at about one-third of that amount, it being assumed that other property was, on the average, undervalued in about that proportion. The representatives of the corporations expressed the view that much of the property was undervalued to an even greater extent, and hence that their property would be overvalued by this plan. They did not appear to be in possession of the data necessary to establish their point, but this was merely a defect in information; they were correct in fact. When the Assessors were questioned as to this point—the rate at which other property was assessed—their answers were evasive, a typical reply being, "I try to get fifty or sixty per cent, but do not succeed."

The actual valuations established in the case of the railroads in 1910 represent a compromise between those proposed by the Governor and those of the previous year, the Assessors doubtless being influenced by a knowledge that other valuations were pretty low. Moreover, they refused to assess the telegraph and telephone lines and the electric light and power lines. They did, however, fix the value for the first time for the Wells-Fargo and the Pullman Companies, using data furnished by the Railroad Commission. Further results from the effort of the Governor and of his successor are found in the rather marked increase in valuations established for railroads in the years 1911 and 1912 and in the inclusion of the property of Western Union Telegraph Company in the list of public utilities valued by the Board of Assessors.

PRACTICAL RESULTS

Did the State Board of Assessors accomplish the purpose for which it was created? Probably it did in some measure, but the reply in the affirmative needs some qualification. The outstanding facts are about as follows: The total assessed valuation of the State was increased very markedly from 1903 to 1912. But it was a period of rapid rise in actual values and it is not certain that assessed valuations increased more rapidly than real values. It is an achievement, however, if, in such a time, assessments rise in equal proportions with market values. The valuations on small residence property and on the property of small owners generally were higher in the beginning and they continued higher to the end than the valuations on the big properties. The valuations on the big properties such as railroads and banks were, in 1912, higher in relation to real value than were the valuations of most public-service property other than railroads, and higher than the valuations on most agricultural land and on range live stock. The information relative to railroads and banks was more complete and accurate. The Public Service Commission had not as yet gotten as complete data relative to the value of telephone, telegraph, and electric light and power lines. The valuations established by the Board of Assessors on cattle, sheep, and other live stock were fairly high in relation to other valuations, but the defect lay in the count. It was impossible for the Assessors to determine the numbers by actual count, and so they continued to accept the statements of the stockmen or to assess the customary number without any statement. In the case of land and other property the old procedure of assessment continued and, since land values were rising rapidly, the unchanging or slowly changing assessment valuations became increasingly low in proportion to actual value. The fundamental defect in the system of assessment lay in the fact that the State Board of Assessors, taken in connection with the local Assessors who worked independently, had no method of achieving uniformity of results. The following characterization of the system as it worked out is taken from the report of the Nevada Citizens' Economy and Taxation Committee, published in 1913. The statements refer to 1912 and earlier years:

DEFECTS IN ASSESSMENTS

1. There is a lack of uniformity as between counties. In some counties the property, excluding railroads, is assessed on the average at about twelve or fifteen per cent of its value. In other counties the property is assessed at approximately forty per cent of its value, and, in still others, at about one hundred per cent. This has the effect of reducing the burden of state taxation for some counties and putting an extra burden on others. For example: In one county each thousand dollars of real value, excluding railroads, pays about ninety cents state tax. In another county property of the same value pays on the average about $2.40 state tax; and in another an equal amount pays about $4.80.

2. There is a lack of uniformity in the assessment of different kinds of property. For example: In one county where agricultural and meadow land is commonly assessed at about ten per cent of its value, merchandise is assessed at from twenty to forty per cent, and small homes in town at about fifty per cent. In another county agricultural land is assessed at about one-third of its value, and much of the town property at over two-thirds of its value.

Alfalfa land varies in value from about seventy-five dollars an acre to about two hundred and fifty dollars, depending upon the quality of the land, the supply of water, and the nearness to market. Some such land is assessed at six dollars an acre; much of it at about ten dollars an acre; and in a few cases fifty dollars is the value assessed. In some cases only about five per cent of the estimated actual value is assessed;

in other instances the land is assessed at thirty or forty per cent of its value. It appears probable that most alfalfa and cultivated land is assessed at about ten or fifteen per cent of its selling value.

The descriptions of land on the Assessor's books often ignore the most important factor in determining value, namely, the existence or nonexistence of a water right in the case of "pasture lands" and "desert lands," "homestead land" and "patented land." In many cases there is no description of the cultural state of the land at all.

The assessed value of stocks of merchandise in relation to inventory value or estimated value varies from eleven per cent to forty-two per cent. Very commonly such property is assessed at about twenty or twenty-five per cent of its actual value.

Small homes in the more prosperous towns are assessed, as a rule, at between forty-five per cent and sixty-five per cent of their real value, with about fifty per cent as the average. Larger residences are usually assessed at a lower rate, varying from twenty-five to forty-five per cent of actual value. In other towns the assessed valuation of homes in relation to real values is higher, in some cases approximating closely to actual values and in other cases exceeding actual values.

Banks are commonly assessed at about fifty or sixty per cent of the par value of the stock, plus the surplus, but in one instance a bank is assessed for only about twenty-three per cent of this amount.

The Central Pacific Railroad is assessed at about fifty per cent of its value as estimated by the State Railway Commission for purposes of rate-making, and at about twenty-seven per cent of the value claimed by the railroad for the same purpose.

The committee has not secured a sufficient amount of reliable information relative to livestock assessments to justify a definite conclusion, but there is some reason to believe that in some cases the number returned is not over one-third the actual number, while in other cases as many as two-thirds of the real number are returned to the Assessor.

3. There is lack of uniformity as between different owners. Some Assessors practically leave each man to make his own assessment and some owners reduce valuations more than others. Again, it is much harder for the Assessor to estimate the value of very large property holdings than it is to estimate that of small holdings. As a consequence, there is a strong tendency for the large owners to escape a part of their taxes. Moreover, the man who insists on low valuations will usually have the advantage of the citizen who submits to his assessment without objections.

The preceding conclusions are based on information relative to a considerable number of assessments in each of six counties, and to a smaller number in other counties. From the large quantity of data collected the following illustrative cases are submitted:

1. A ranch of 820 acres with a considerable acreage under cultivation recently sold for $33,000. It was assessed at $3,240, or less than ten per cent of its sale price. This ranch, according to the committee's method of estimation, is worth $30,298. As this is less than the sale price, it appears that our estimate is fairly conservative.

2. Another ranch is offered for sale by the owner for $44,000. According to our estimate it is worth $37,455. It is assessed at $6,330, or less than fifteen per cent of the price set by the owner.

3. Another ranch recently sold for $16,000. It is assessed at $2,000, or twelve and one-half per cent of the sale price.

4. Another ranch recently sold for $100,000. It is assessed at $10,500, or ten and one-half per cent of sale price.

5. Another ranch recently sold for $25,000. It is assessed at $2,000, or eight per cent of sale price.

6. Choice land of several ranches in a certain valley is assessed at $33 per acre. Several farms in this valley have sold in recent years at from $200 to $250 an acre. Best land is assessed at about twelve per cent of actual value.

The above instances are submitted as typical of agricultural land assessments in several important counties.

A great number of cases could be cited showing about the same conditions. There are, however, some extreme cases where the property is assessed at as low as five per cent of the estimated value; at the opposite extreme the rate is about twenty per cent in these counties. In some other parts of the State, land is assessed at a higher per cent of its value. The following examples are given:

7. A small ranch near the railroad was purchased for $10,000 six or seven years ago. The owner recently refused $17,500 for it. It is assessed for $5,130, or about thirty per cent of the price offered.

8. A small ranch, recently sold for $9,000, is assessed at $1,890, or about twenty-one per cent of sale value.

9. A ranch for which $35,000 was offered recently is assessed at $12,540, or about thirty-five per cent of the price offered.

10. An owner offers to sell a ranch for $40,000. It is assessed at $17,000, or about forty-five per cent of price asked.

11. A ranch, recently sold for $45,000, is assessed at $13,870, or about thirty per cent of the sale value.

12. A ranch, recently sold for $35,000, is assessed at $13,000, or thirty-seven per cent of the sale value.

13. A house and four lots in a county-seat, estimated to be worth $6,000, is assessed at $2,600, or about forty-three per cent of the value.

14. Another home in the same town, estimated to be worth $1,500, is assessed at $1,000, or sixty-six and two-thirds per cent.

15. A small house, estimated to be worth $4,500, is assessed at $2,150, or forty-eight per cent of value.

16. A small home estimated to be worth $4,500, is assessed at $2,400, or about fifty-three per cent of value.

17. A small house on a large piece of city land. Cost of construction, $1,000. Assessed at $300, or thirty per cent of cost.

18. A small house which has suffered considerable deterioration since it was built. Probable value of house $2,000. Assessed for $1,500, or seventy-five per cent of value. The assessment was not so high a per cent of real value ten years ago when the house was in better repair.

19. A large elegant residence is assessed at about thirty per cent of what it cost the owner at a recent purchase.

20. A smaller residence is assessed at nearly fifty per cent of cost of lots and construction.

21. Two counties report that homes are assessed at nearly or quite the full cash value.

22. One county reports that homes are assessed at more than they could be sold for.

23. A large stock of merchandise is assessed at about twenty-five per cent of estimated inventory value.

24. A smaller store in the same town as 23 is assessed forty-two per cent of estimated inventory value.

25. A large stock of merchandise in another town is assessed at about twenty-five per cent of inventory value.

26. A smaller stock of merchandise assessed at twenty-eight per cent of inventory value.

27. A still smaller stock of merchandise in the same town as 26 assessed at thirty-seven per cent of inventory value.

28. A large stock of merchandise in another town is assessed at about eleven per cent of the inventory value.

The estimated value of each bank as used by the committee is equal to the par value of the stock plus the surplus.

29. A large bank is assessed at fifty per cent of its estimated value.

30. A small bank is another county is assessed at fifty per cent of estimated value.

31. A large bank in the same county as 30 is assessed at sixty-four per cent of its estimated value.

32. Another bank is assessed at fifty-three per cent of its estimated value.

33. A small bank in another county is assessed at about twenty-three per cent of its estimated value. This case appears to be exceptional.

34. The following is taken from an assessment roll:

Personal Property
100 horses
1 stallion
1 jack
1,000 stock cattle
75 hogs
10,000 sheep
Wagons and machinery
Total assessed for $25,000

It will be observed that if the sheep were assessed at the rate fixed by the State Board of Assessors, $2.50 per head, the other live stock, including 1,000 stock cattle, was not assessed at all.

35. A stockman assessed for 500 sheep is reported as having sold sheep to the value of $23,000 during the season. The popular inference is that the owner possessed a much larger flock than he returned to the Assessor.

From confidential sources, information regarded as very nearly accurate has been received that one large sheep owner is assessed for about thirty-five per cent of the number owned, not counting lambs.

It cannot be asserted on the basis of the present information that the cases of livestock assessments here cited are typical. Further information is needed. Probably these cases are extreme.

The following data relative to bullion tax collections and bullion tax evasions has been received since the meeting of the committee, and it cannot be considered, strictly speaking, as a part of the report of the committee, but the chairman takes the liberty of inserting it. As the information is for a few mining corporations only, their names are withheld. When tax evasions are as common as they are in this State, it would be unfair to present an incomplete list of those who are guilty of this offense.

The chief way in which mining corporations evade their taxes is by organizing secondary corporations for transportation and reduction purposes, and by doing the business in such a way as to make it appear on the surface that the mining corporation is making a very small profit, but that the business of the secondary corporations is very profitable. This may be illustrated by the following purely hypothetical case:

Suppose that in the case of a given mine the ore is worth

$30 a ton, and that the actual necessary cost and artificial higher cost as reported are as follows:

	Actual necessary costs	*Higher costs reported*
Cost of extraction	$4.00	$4.00
Cost of transportation	.50	5.00
Cost of reduction	5.00	12.00
Total cost	$9.50	$21.00

If thirty dollars worth of bullion is recovered from a ton there would be real net proceeds equal to $20.50 a ton, but under the system of artificial costs the net proceeds are reduced to $9. The secondary corporation, which is owned by the same people and which received five dollars for doing fifty cents worth of service is, of course, able to show tremendous profits, but such profits escape taxation.

In the computations by which the following results were reached, the actual net proceeds are considered as equal to the dividends for the period plus any additions to the undivided profits in the treasury or minus any decrease in the undivided profits:

Corporation A returned for purposes of taxation about forty-two per cent of the actual net proceeds.

Corporation B returned for purposes of taxation about fifteen per cent of the actual net proceeds.

Corporation C returned for purposes of taxation about thirty-two per cent of the actual net proceeds.

Corporation D returned for purposes of taxation about fifty-eight per cent of the actual net proceeds.

Corporation E returned for purposes of taxation about forty-seven per cent of actual net proceeds.

One corporation reports the cost of extraction to its stockholders at a little more than one-half the cost as reported to the Assessor.

Another company reported the cost of reduction and sale to its stockholders at a little more than one-fourth the cost as reported to the Assessor.

Similar disagreements exist in the case of other companies.

Where the data are available they go to show that a very large share of the dividends are earned by the secondary corporations. Such secondary corporations have been aptly named "milking corporations," their purpose being to take the profits.

While our constitution requires creditors to pay tax on solvent credits whether secured by mortgage or not, and also a tax on money, these forms of property are, in practise, able to excape taxation almost entirely. In this State the amount of revenue derived from the tax on mortgages and on money and bank deposits and other credits is so small as to be negligible. Moreover, it is not possible to reach effectively such forms of property under our general property tax law. Perhaps it would be possible to enforce the law so far as it applies to mortgages and bank deposits, but this would doubtless have unfortunate economic effects. The present tendency in legislation is to exempt such forms of property so far as the ordinary property tax is concerned.

While there are very serious underassessments and inequalities of assessment in this State, it must not be inferred that these conditions are peculiar to Nevada, or that conditions are worse here than they are or have been in other States. An extensive reading of the literature treating of the experience of many other States reveals the fact that the system of taxation and of assessment has produced just such results in the other States. Such results are the regular and normal outcome of the system and are not due to any unusual inefficiency on the part of the Assessors of this State, or to any unusual perversity on the part of property owners in this State. It is the system that is wrong.

A certain sort of uniformity of valuation was achieved by the State Board of Assessors in relation to the property of railroads—uniformity possibly not contemplated by the constitution. In general, the policy of the board

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was to assess the property of a given corporation or line on a state unit basis, and then to determine the value per mile by dividing the total value by the number of miles. The value assessed to each county was determined by multiplying this value by the number of miles. This method has been applied more generally during the last four years under the State Tax Commission and will be discussed in connection with the work of the commission.[1]

In 1903 the Legislature adopted a device for securing higher assessments which was wrong in principle and, in the main, futile in practise. The law provided for a gradual reduction of the rate of taxation for county purposes.[2] It was supposed that, with the reduction of the rate, the counties would be compelled to assess at higher valuations. The injustice of the act lay in the fact that the reduction of rate was to continue until all counties reached the same maximum tax rate—50 cents on the hundred dollars for county purposes. This required the counties with large and highly valuable railroad mileage to reduce their rate to a comparatively small extent because their rate was already low, not on account of high valuations, but because of the fact that the railroads paid most of the tax. On the other hand, the counties of small wealth which were already assessed at comparatively high valuations were required to reduce their rates and consequently to increase their valuations to a very great degree. The futility of the law arose from the fact that there were some loopholes for evasion through contracting indebtedness and through the fact that when the pressure began to be felt, some counties secured exemption by legislative acts, so that in fact it came to apply only where it could apply without affecting valuations seriously.[1] The actual value of property was increasing in some counties so rapidly that they could comply with the law without raising valuations and without inconvenience. Probably the act, as originally passed, was unconstitutional and if not, the special acts exempting certain counties from its operation are almost certainly so, but no county ever cared to carry the question to the courts. It has been easier to get legal exemption whenever it was inconvenient to observe the provisions of the act. This law having failed to accomplish its purpose, it was repealed in 1917.

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[1] See Chapter V. [2] Nevada Statutes, 1903, p. 107.

THE NEVADA TAX COMMISSION

The State Tax Commission, created in 1913, represents the most recent step in the direction of centralized administrative control. Under the original law this body consisted of three members, two of whom were appointed by the Governor, the other being a member of the State Railroad Commission. In 1915 the law was amended in such a way as to provide for a commission of five members—the Governor and the three members of the Railroad Commission, with one appointive member who served as Secretary. In 1917 the law was again amended so that the present commission has seven members—the Governor, one member of the Railroad Commission, and five appointive members. The five appointive members are expected to give only a limited amount of their time to the work of the Commission, and they are appointed to represent certain large property interests: (1) land, (2) live stock, (3) business, (4) mining, and (5) banking.[1]

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[1] Nevada Statutes, 1905, p. 188.

Very broad powers were given to the original commission, including the final power of equalization for all property, but this power of equalization now rests with the State Board of Equalization, a body consisting of the members of the Tax Commission and the various County Assessors. The commission still possesses large power, including the following:

1. To exercise general supervision over the entire revenue system of the State.
2. To confer with, advise, and direct Assessors, Sheriffs, County Boards of Equalization, and all other county revenue officers as to their duties in connection with revenue.
3. To prescribe uniform rules for the assessment of property in the various counties, and to prescribe all forms and blanks for the use of Assessors.
4. To summon witnesses, administer oaths, and to examine the accounts of any person, firm, or corporation.
5. To require Boards of County Commissioners to submit budgets for county expenditures, and, under certain

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[1] The law reads as follows: * * * "One of the commissioners shall be one of the associate commissioners of the railroad commission of the State of Nevada, to be designated by the Governor; one of said commissioners shall be versed in and possess a practical knowledge and experience in the classification of land and the value thereof; one of said commissioners shall be versed in and possess a practical knowledge and experience in live stock and the value thereof; one of said commissioners shall be versed in and possess a practical knowledge and experience in the mining industry; one of the said commissioners shall be versed in and possess a practical knowledge and experience in business; one of said commissioners shall be versed in and possess a practical knowledge and experience in banking; each of said commissioners at the time of his appointment shall be actively engaged in the business of the department which he is chosen to represent on the commission * * *."

conditions, to direct such boards to modify the county tax rate.

6. To assess all railroad and other property of public-utility corporations.

7. To sit with the County Assessors as a State Board of Equalization.

8. To determine the net proceeds of all mines.

An experience of four years with commission assessments is now available for examination and it is possible to discover certain pretty evident tendencies. While there has been a series of changes in the constitution of the commission, and while these changes indicate some lack of stability in state policy due to the opposition of certain prominent taxpaying interests, the actual work of the commission has been characterized by a high degree of continuity. So far, the commissioners have been men of high ability, and they have worked zealously and unitedly for more uniform assessments and for higher valuations for most sorts of property.[1]

The first commission was appointed in March, 1913, after part of the property had been assessed—too late to enable it to secure adequate information for many purposes. The assessment of 1914, the first full year of the commission's existence, shows a gain of about 35% over the total for 1912. There were important increases in the valuation of certain public utilities and of much land and live stock.

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[1] There has been less change in the personnel of the commission than one might infer from a reading of the various amendments to the law. Governor Boyle was an appointed member of the first commission and he now serves as an ex officio member. Hon. J. F. Shaughnessy of the Railroad Commission has served as Tax Commissioner from the first. Until quite recently Hon. L. F. Adamson has served as Secretary of the Commission, and during a part of the time he was a member. Hon. F. N. Fletcher, who now serves as Secretary, was formerly a member of the commission.

The commission has been confronted by some pretty difficult problems, some of which are inherent in any advance movement and some of which grow out of the specific provisions of the law. It was charged with heavy responsibilities and was given the legal authority essential to the discharge of those responsibilities. But it was not, in the nature of things, possible for the commission to secure sufficient information for its purpose, and with sufficient promptitude. Doubtless, some of its actions have been based on assumptions not wholly true. It is fairly apparent, however, that the commission began its work with both courage and caution. The important changes in valuations have usually been in the right direction and its few mistakes are not of the self-perpetuating variety; they are the means whereby both the commission and the public are getting a better knowledge of the situation. On the whole, the commission plan appears to be not only the best in theory, but, so far as one may judge from actual results, it is achieving a greater degree of uniformity than has existed hitherto. A few comparisons of the valuations of 1912 with those of later years may be interesting and instructive.

The original assessments of public utilities in 1913 were made by the old State Board of Assessors which held its session about two months before the new Tax Commission was created. The Tax Commission, however, exercised authority in equalization. In the time available for its work it was not able to secure adequate data for all purposes, but it did advance the value of certain classes of property, including some public utilities, very markedly, and in most cases there were further advances the following year. For example, the Tonopah Water Company was originally assessed in 1913 at $120,045. The Tax Commission raised this to $150,000 for 1913, and to $247,790 in 1914, and to $320,400 in 1916. Similarly, the valuation of the property of the Nevada-California Power Company was increased from $170,382 to $380,000 in 1913, and to $2,221,417 in 1914 — an amount over thirteen times as great.[1] The Truckee River General Electric Company had its valuations raised from $381,639 to $551,150 in 1913, to $765,383 in 1914, and to $820,890 in 1916. In general, the highest rates of increase fell on local public-utility corporations such as power, light, and water companies and on telephone and telegraph companies—the public utilities that the State Board of Assessors had refused to value collectively in 1910. It is not to be inferred that there was any uniformity in these increases. For example, in the case of telephone and telegraph companies, some were advanced by less than twenty per cent. The chief line, the Western Union, was raised over one hundred per cent, and the Bell Telephone Company over two hundred per cent.

The commission has devoted much attention to the valuation of land, establishing classifications and increasing the valuations in a marked degree and in such way as to equalize the taxes as between counties better than provision of the California law which exempted mines from taxation, but on account of the lack of other sorts of property this plan was abandoned almost immediately, and the Territory tried a variety of compromise expedients designed to secure revenue from the mines.

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[1] In a recent decision the Federal District Court has held that this assessment was excessive because too much of the value of the intangible property was attributed to the transmission system. In the opinion of the court the situs of a considerable part of the intagible value is the same as that of the power plant. This opinion is significant in relation to the "collective-unit-valuation-mile-unit-apportionment" method of assessing public utilities.

Nevada's experience as a Territory, extending over but four years, was too brief to permit of the experimentation necessary to the evolution of a system of taxation adapted to her peculiar economic circumstances. The early revenue laws of California, so influential in Nevada, represent the early crude and imperfect efforts of that State to meet pioneer conditions. The rather rigid and specific requirements of the Nevada constitution, as interpreted by the Supreme Court, do not, at present, permit of those modifications in our system of taxation which are demanded by the more mature state of society. There has been, of course, a large amount of legislation—a needlessly large amount—but, while much of this has been useful and some of it very important, it has dealt largely with administrative details, the fundamental questions being removed from the sphere of legislation.

The history of taxation in Nevada during the territorial period (1861–1864) and during the first fifteen years of statehood consists largely of an account of how the mining interests sought to escape taxation or, failing in that, to keep their taxes as small as possible. The contests between the mining interests and the other interests, begun in the Territorial Legislatures, was carried to the two constitutional conventions, to the State Legislature, to the District Courts and the Supreme Court of Nevada and to the United States Courts.

TAXATION OF MINES IN THE TERRITORY

The first Territorial Legislature (1861) exempted mines from taxation by specific provision and did not provide for a tax on production.[1] In the early days of a mining camp this course has much to recommend it. It is far from certain that the mines have any value in the sense of ability to pay a profit on operation, although they may have a considerable value as measured by the selling price of stock. Furthermore, the value of all property in the vicinity of the mine is derived almost wholly from the activity of the mine owners in developing their property. Consequently there is a tendency in a new mining camp to regard the man who invests in an unproven mine as a public benefactor deserving the most liberal treatment.

The second Legislature (1862) moved, doubtless, by the need for revenue and by the lack of other property, provided for a small tax on the gross proceeds of mines, twelve cents on the hundred dollars for territorial purposes and eighteen cents for county purposes.[2] This rate was far below the rate of the general property tax, which was fixed at fifty cents for territorial purposes and at a rate not to exceed eighty cents for county purposes. According to the common understanding "gross proceeds" included the value of all the bullion recoverable from the ore. The District Attorney of Storey County, however, in an official opinion, held that the proceeds of a mine included only the value of the untreated ore at the mouth of the mine; that the added value of the bullion was the product of the mills. From a strictly economic viewpoint the District Attorney was right, but, through the failure of the Legislature to say what it meant in clear language, about sixty per cent of the bullion escaped taxation.

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[1] Territorial Statutes, 1861, p. 146.

[2] Territorial Statutes, 1862, p. 161.

The third Territorial Legislature (1864), apparently convinced of its inability to secure the desired revenue on the basis of a tax on proceeds, enacted a law taxing mines and mining claims under the provisions of the general property tax, the mines being assessed as real estate.[1] This was contested in the courts on the ground that the real estate could not be taxed since the title to the land still lay with the United States Government. This was one of the very early cases brought to the new State Supreme Court in 1865, and the decision was favorable to the State. It was held that a mining claim—a possessory right to mining ground—was, under the territorial ordinance, taxable.[2] This decision had no importance for the future, for the new constitution had a clause exempting mines from taxation.

All in all, the mines paid little tax during the territorial period and, as a consequence, the new State began its career with a reported indebtedness of $264,110, upon which the rate of interest was from ten per cent to eighteen per cent, the average rate being over fourteen per cent, and all interest was payable semiannually.[3]

One of the important duties of the first State Legislature (1864–65) was to place its interpretation on Article X of the constitution which provided for the taxation of the "proceeds only" of mines and to exercise its discretion in the interest of a just apportionment of the burden of supporting a State Government. This Legislature, said to be dominated by the mining interests,[1] provided for the assessment of the proceeds of mines in such a way as to secure an undervaluation, and then levied a tax on this valuation at a rate much lower than the rate on property.

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[1] Session Laws of the Third Territorial Assembly, p. 38.

[2] 1 Nev. 104.

[3] Report of Territorial Auditor, 1864, p. 17.

The term "proceeds of mines" was interpreted to mean the value of the ores, not the value of the bullion, and the value of the ore was to be determined by subtracting twenty dollars a ton from the value of the bullion extracted by ordinary processes and by subtracting forty dollars a ton from the value of the bullion extracted by the Freiburg process, and then by taking three-fourths of the remainder as the value of the ore for taxation.[2] The twenty and forty dollars exempted were arbitrary amounts considered as equal to the cost of transportation and reduction according to the process used. It was claimed that these estimates were excessive, and hence that they served to exempt part of the value of the ore from taxation.[3] The Supreme Court did not, however, consider the estimate so manifestly excessive as to render the provision unconstitutional.[4] It is probable that any arbitrary amount, if correct at one time, would become excessive through improvements in the technical processes and the general lowering of the range of prices, which were very high in the early of tax on the proceeds of mines different from that on other property.[1]

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[1] See note, p. 80.
[2] Laws of Nevada, 1864-65, p. 306.
[3] See note, p. 80.
[4] 3 Nev. 179.

This decision was in no wise necessitated by the language of the constitution, nor was it supported by the opinions expressed on the floor of the constitutional convention, since the only views there advanced were favorable to the idea that the Legislature would have the power to fix a different rate on the proceeds of mines.[2] Furthermore, a strict construction of the clause exempting mines from the operation of the general property tax would also exempt them from the other preceding provisions including the requirement of uniformity. Moreover, if it be contended that it is the aim of the constitution to maintain the spirit of uniformity and equality while departing from uniformity of method, the reply is that from the point of view of the general property tax which was commonly held at that time, this aim is not ordinarily realized by the requirement that the rate of taxation on the proceeds of mines shall be equal to the rate on the value of other property since the tax on proceeds is a tax only on the annual product, not on the value of the producing mine.

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[1] Extracts from Supreme Court opinion on the taxation of mines under acts of 1864-5 and 1866 (3 Nev. 173-181):

"The first phrase to which our attention is called is this: 'a uniform and equal rate of assessment and taxation.' We have no hesitation in saying that the constitutional convention, in using the language last quoted, meant to provide for at least one thing in regard to taxation; that is, that all ad valorem taxes should be of a uniform rate or percentage. * * * If the language we have quoted did not express this idea, then it was perfectly meaningless. The language used may mean much more than this, but it cannot mean less. The constitution clearly intends to provide against that species of injustice which frequently prevails in communities where there is one overshadowing interest, the exemption of the property connected with that interest from its legitimate share of the public burdens." * * *

"That the mines—which constitute the greater part of the wealth of the State—have for the last two years almost entirely escaped taxation, is true. That the failure to collect the due proportion of taxes from them has greatly embarrassed the State, and thrown a heavy burden on that portion of the population least able to bear it, is equally true."

[2] Constitutional Debates, pp. 443, 444, and 520.

On the whole, the court appears to have been moved, not by strict technical considerations, but by broad considerations of justice. Here were the big dominating mining interests owning most of the property of the State, achieving great fortunes through the bounty of nature, and, through their political and financial influence, securing laws which largely exempted them from taxation, thus throwing an unduly heavy burden upon other interests. Apparently the court considered this so manifestly unjust that it could not be possible for the constitution to leave such a course open. We know how atrociously unjust such discrimination must have appeared to at least one of the Supreme Judges, since he expressed himself very freely on the general question in the constitutional convention of which he was president, and the language of the opinion itself, written by another member, while more guarded as becomes a supreme court opinion, betrays a similar attitude.

But while dictated by considerations of justice, it must be confessed that the considerations were short sighted, for, even at the time the decision was made, the circumstances which appeared to make it necessary were passing away. The Legislature a few weeks earlier had, in response to a strong public sentiment and after a long and bitter fight, repealed the discriminatory provision with one exception applying to local taxes,[1] and had adopted a policy essentially similar to that probefore. In relation to livestock assessments the chief effort of the commission has been to secure a better count of sheep and cattle. Armed with more adequate power to secure the necessary information, the commission has adopted methods of assessment for the net proceeds of mines which secure better results, but the revenues from this source continue to fluctuate mainly according to the rise and fall of the mining industry. As a general result of the work of the commission, the valuation of taxable property has been increased to a notable degree.[1] Much property previously unassessed has been put on the assessment rolls. As a rule the increases in value have applied chiefly to property that was previously undervalued. The burden of taxation is apportioned more nearly as contemplated by the law. The Tax Commission is the most effective agency for securing equal and uniform assessments that the State has evolved up to the present time.

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[1] Statutes of Nevada, 1867, p. 159–163.

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[1] From 1912 to 1916 the total assessed valuations subject to ad valorem tax has increased by 73%. This has been a period of comparatively small increase in real values, and the gain in assessed valuations may be attributed almost wholly to more efficient assessments.

CHAPTER IV

TAXATION OF MINES AND PROCEEDS OF MINES

The problem of the early law-makers of Nevada was to devise a system of taxation adapted to her unique economic situation. Their experience was useful only to a limited extent. They were familiar with the general property tax, but this was objectionable to the dominant mining interests so far as it applied to their own property, and, furthermore, there were reasons based on considerations of a more public character for conceding to the mining industry special treatment. But there was, at the time of the adoption of the constitution, very little property in the State aside from mines, and that little was found chiefly in mining camps. There were no railroads and there was no agriculture excepting a little gardening and hay-making wholly dependent on the mines for a market. No Eastern State ever faced a similar situation, and even California, a mining State, was never so one-sided in its economic development.

Most of the early miners had lived previously in California, and the customs and laws of that State were influential in molding early legislation in Nevada.[1] The first Legislature of the Territory of Nevada enacted the years. It is certain that the cost of transportation and reduction would vary considerably according to the location of the mine, according to the character of the transportation facilities, and to the size and efficiency of the reduction plant. At this distance it seems probable that the estimate was large enough to cover the expenses in the case of a mine operating under rather unfavorable conditions, and that the big mines, with more efficient and convenient plants, were able, by this provision, to evade the payment of taxes on a considerable part of the value of their ore.

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[1] Apparently the early placer mines of California were exempt from taxation for the reason that it was practically impossible to tax them. The value of a claim could not be told with even an approximate degree of accuracy and, moreover, the valuable claim of assessment time might be worked out and worthless by taxpaying time. When deep mining began the Legislature exempted mines from taxation by specific provision. (Statutes of California, 1857, p. 326.) In 1872, when mining interests had declined in power, the mines were deprived of this advantage and mines were made taxable as real estate. (Political Code of California, 1872, p. 4.)

I have not been able to find any statement of the reason for the provision that only three-fourths of the value as thus ascertained should be assessed for purposes of taxation, but it is probable that the mining interests claimed the benefit of this arrangement on the ground that property in general is usually assessed at much less than it is worth even when the law, as in the case of Nevada, provides for assessment at the actual cash value. This provision was declared unconstitutional in the year 1867.[1]

The total ad valorem rate of taxes on the proceeds of mines for state and local purposes was fixed at $1 on the hundred, while the rate for property in general was as follows: For state purposes, $1.25; for county purposes, not to exceed $1.50; for school purposes, whatever the local authorities might establish.[2] It appears to have been the understanding of the mining interests that the proceeds of mines were exempt from all taxes except the fifty cents for state and fifty cents for county purposes, and the language of the act will bear this construction, but when a mining corporation contested the city tax levied in Virginia City in 1865, the Supreme Court let its ideas of justice control its interpretation of the ambiguous language, and declared that the charter of Virginia City made the proceeds of mines taxable for the same purposes as was property of other sorts.[1] As a result of this decision the charter of Virginia City was amended in 1866 in such a way as to exempt the proceeds of mines from municipal taxation,[2] and a similar provision was inserted in the charter of Hamilton in 1869.[3]

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[1] 3 Nev. 179.

[2] Statutes of Nevada, 1864-5, p. 271, 272.

For the two years 1865 and 1866 the State received revenue from the proceeds of mines amounting to less than thirty thousand dollars—an amount equal to about one-tenth of one per cent of the value of the bullion extracted.[4] As a consequence the debt of the State was increasing at the rate of over $150,000 a year, the total amount reported December, 1866, being $585,168.29, nearly all of which was payable in gold.[5]

In April, 1867, the Supreme Court gave a third and most important opinion relative to the taxation of mines, and, like the previous opinions, it was unfavorable to the contention of the mine owners who had been able to secure legislation ~~so favorable~~ to themselves. The gist of the opinion was to the effect that the revenue act of 1864–5, which had been reenacted with only a few changes in 1866, was unconstitutional in so far as it fixed a rate mulgated by the court, thus showing that the remedy could be achieved by political action. Apparently the only beneficial effect of the decision lay in the fact that it removed this specific question from the sphere of legislative contests. On the other hand, it deprived the Legislature of an important power—the power of graduating the rate — a power which would have enabled the Legislature in later years, under conditions of greater economic stability and political maturity, to have taxed the proceeds of mines more nearly in harmony with the spirit of uniformity and equality than is possible under this decision.

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[1] 2 Nev. 88.

[2] Statutes of Nevada, 1866, p. 90.

[3] Statutes of Nevada, 1869, p. 163–4.

[4] Report of Controller for 1866, p. 6.

[5] Report of Controller for 1866, p. 29.

The first State Legislature made all taxes payable in gold and silver coin. As specie was in common use in business transactions, the use of legal tender government notes being practically unknown in Nevada, this requirement was natural and involved no practical difficulties. Valuations were made in gold and taxes were paid in gold. In 1866, however, the section of the law containing this provision was amended in such a way as to omit all reference to the kind of money in which taxes were to be paid. This, of course, had the effect of permitting them to be paid in legal tender paper and, as a matter of fact, most taxes were paid in paper while property in general was assessed in terms of its value in coin, thus reducing taxes of all sorts by about a fourth and incidentally reducing salaries of public officials proportionately.[1]

In 1867 the Legislature amended the law to require that all property, including proceeds of mines, be assessed on the basis of its value in legal tender paper currency.[1] This law, while apparently uniform with reference to all property, was in reality unfavorable to the mine owners for two reasons. In the first place it reduced the value of the exemption made to cover the cost of reduction, since this was smaller when made in terms of legal tender paper. Second, the procedure for determining the value of ores was such as to make it probable that higher valuations corresponding to the premium on gold would be made. Evasions were possible only by the use of outright fraud. On the other hand, the valuation of other property involved a larger element of discretion and, in view of the well-known conservatism of Assessors, there was little probability of any serious increase in such valuations.

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[1] Controller's Report for 1866, p. 7.

Under these conditions it is not surprising to find the mining interests up in arms against the law. They first brought over the Storey County Assessor to their point of view, and the proceeds of mines were assessed at their value in gold, but this was given as the value in paper.[2] Litigation followed and the District Court decided the case in such a way as to provide an easy, permanent method of evasion, but on appeal the Supreme Court held the Assessor responsible for a strict procedure that would preclude the possibility of evasion without direct fraud.[3]

A further concession made by the mining interests in the Legislature of 1867 was a reduction of the exemption to cover cost of transportation and reduction from twenty dollars a ton to eighteen dollars a ton.[1]

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[1] Statutes of Nevada, 1867, p. 159.

[2] 4 Nev. 180.

[3] 4 Nev. 182 and 213.

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[1] Statutes of Nevada, 1867, p. 160.

The following extract from the argument of the Attorney-General before the Supreme Court in the case of *Nevada v. Kruttschnitt* is given, not as an unbiased statement of the situation, but as typical of the views frequently expressed by public men at that time:

"Before proceeding to discuss the particular points relied on in this case, it may not be improper to premise a few general remarks, made by opposing counsel on the oral argument, in substance that the tax sought to be enforced was unjust, and that the suit was prosecuted at the instance of state officials in violation of the letter and spirit of the revenue law, and in violation of a compromise made between the mine-owners and the Legislature.

"It is a sound principle of the Government, that taxation shall be equal and uniform, and that each citizen of the Commonwealth shall bear his just proportion of the public burdens. At the instance of the mine-owners, and by their intrigue and threats, the constitutional convention so far sacrificed this just principle as to wholly exempt from taxation the mines, the most valuable, most productive, and most considerable property interest in this State—vesting in the Legislature the power to tax the proceeds alone.

"When the first Legislature convened under the constitution, the friends of equal taxation attempted, in conformity with the letter and spirit of the constitution, to impose the same rate of taxation upon the proceeds of mines as upon other property. But their efforts were met and thwarted by the same spirit of intrigue and domination that have procured the exemption of the mine itself; until in the face of the constitution twenty dollars were deducted from the gross yield per ton, and a tax levied on seventy-five per cent only of what remained. This effort was renewed in the Legislature of 1866 with similar results. In 1867 the burthen of taxation falling heavily upon the people, the treasury depleted, the State heavily in debt, with no power to borrow, and no credit to borrow on if the power had existed, when bankruptcy stared us in the face and fears were seriously expressed respecting the success and permanent existence of the State Government, the friends of equal taxation again attempted to impose taxation upon the proceeds of mines in accordance with the provisions of the constitution. When the Legislature convened there was scarcely one of the fifty-four members who did not favor the proposition. Notice of intention to introduce the bill had scarcely been given when a swarm of mine-owners, mining superintendents, and persons in their interest besieged the Legislature with such determination and persistency as to prevent the passage of any revenue law during that session, *thus necessitating an extra session at a cost of $20,000 to the State.*

"In the extra session the contest was again renewed by the employment of the same devices and by resort to the same intrigue; until when the session was about to expire, the honest advocates of just taxation were again forced to sacrifice principle by an odious discrimination in limiting the tax upon the mines for county purposes to twenty-five cents on each one hundred

The Legislature of 1869 enacted no important general legislation relative to taxation of proceeds of mines, excepting that all taxes were made assessable and payable in coin only. The Supreme Court decision of 1867 had removed one issue from the domain of legislation and the new issues were not as yet sufficiently well defined to precipitate a contest. Probably both sides were anxious to keep this question in the background in the interest of other legislation, some of which was concerned with the taxation of the new Central Pacific Railway, and some of which provided for county aid to the construction of the Virginia and Truckee Railway connecting the mines of the Comstock with Carson City and the valley of the Carson River where the reduction plants were located.[1] The tendency to favor the mining interests is disclosed in a few minor instances only—in a provision of the city charter of Hamilton exempting the proceeds of mines from municipal taxation, and in the partial exemption of the proceeds of mines in Storey County from county taxation. This last arrangement acquired new significance through the bonding of that county in aid of railroad construction.

The Legislature of 1871 enacted some important amendments to the revenue act modifying the procedure of Assessors in determining the value of the proceeds of

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dollars valuation, and deducting from the gross yield of wet-process ores eighteen dollars per ton—an amount largely in excess of the actual cost of reduction. This discrimination, so unjust to the general taxpayers of the State, and so partial to the mine-owners, *was accepted by the latter as a satisfactory compromise*, and it was hoped and believed this compromise, at least, would be observed in good faith." (4 Nev. 183.)

[1] A few years later this railroad was extended to Reno, where it formed a junction with the Central Pacific Railroad, but such extension was not a condition for the receipt of county aid. See Statutes of Nevada, 1869, p. 163.

mines. Since 1866 the Governor and the State Controller had been urging certain changes designed to secure a more just valuation.[1] Their idea was to fix the value of the proceeds at the value of the bullion less the actual cost of extraction and reduction. This was expected to increase the state revenue since, in the case of the most productive mines, the arbitrary allowance of eighteen dollars a ton of the law of 1867 was considered excessive, and, at the same time, it was calculated to be advantageous to the owners of small remote mines where the expenses of operation were unusually high and where the eighteen-dollar allowance was less than the actual cost of extraction and reduction. Here for the first time the principle of making an allowance for the cost of mining is recognized. This, of course, was favorable to the mine owners, but it was recommended by the Governor as an act of simple justice, not as a compromise. It is a testimonial to the fair-mindedness of Governor Blasdel that, while his idea was adopted only in part by the Legislature of 1871, it was later more fully embodied in the law by a series of amendments and has served for many years as the basis of our laws on the taxation of the proceeds.

The provision of the act of 1871 are as follows:[2] The value of the taxable proceeds of a mine was to be determined by subtracting from the gross value of the bullion an amount equal to the actual cost of mining, transportation, and reduction, provided that these costs should not exceed a certain arbitrarily graduated percentage of the value of the bullion recovered. The maximum exemptions were as follows:

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[1] Governor's Message, 1869, p. 6; Controller's Report for 1868, p. 7.
[2] Statutes of Nevada, 1871, p. 87.

For ores yielding $12 or less per ton, 90%.
For ores yielding $12 to $30 per ton, 80%.
For ores yielding $30 to $100 per ton, 60%.
For ores yielding over $100 per ton, 50%.

There was an additional maximum exemption of fifteen dollars a ton for ores treated by the Freiburg process.

The provision limiting the returnable costs to a certain percentage of the value of the ore was intended, apparently, to prevent the doctoring of cost accounts and doubtless was of some effect where the ore yielded but little profit. The per cent of exemptions permitted in the case of the better ores was so high as to fail of its desired effect. Indeed, it is probable that the statement of a maximum limit encouraged mining operators to return costs nearly up to the limit and without much reference to actual costs. Figures cited in Governor Bradley's biennial message (1875) show that during the first three years of the operation of this law the amount of proceeds assessed for taxation for a certain mine was equal to fifty-seven per cent of the gross yield, the cost exemptions being forty-three per cent, whereas on the basis of true costs, the cost exemptions should have been only about thirty per cent.[1] From October 1, 1875, to September 30, 1878, the value assessed for taxation was over fifty-six per cent of the bullion value and the average exemption for costs amounted to over $26 a ton—an amount nearly fifty per cent larger than was allowed under former law.[2]

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[1] Biennial Message of the Governor, 1875, p. 10.

[2] Report of Controller for 1876, p. 100.

The total effect of this law was to increase the taxes paid on ores yielding little or no profit, while the more profitable ores paid less than before. On the whole, the State received less revenue and the big, profitable mines secured important advantages. The law was right in principle, but weak from the administrative standpoint; but, in spite of this victory of the big mining interests, the revenues from the proceeds of mines were very greatly increased during the next seven years, thanks to the wonderful productivity of a few rich mines and to the law of 1867 requiring that the rate be the same on the proceeds of mines as on other property.

In 1877 the provision of the act of 1871 fixing maximum cost exemptions was modified so that it did not apply to mines producing one ton or less of ore a day[1]; and, in 1885, the provision was repealed altogether, leaving the requirement that the net proceeds be taxed and defining net proceeds as the gross returns less the actual cost of mining, transportation, and reduction.[2] Thus was the recommendation of the first Governor made into law, but by this time it was a matter of less importance, since but little ore was being produced and most of that little at small profit.

In the opinion of the Supreme Court in the case of *Nevada* v. *Estabrook*, it was held that all ad valorem taxes must be levied at the same rate. While this particular case does not involve the question of local taxation, the opinion was set forth in terms sufficiently broad and general to cover local as well as state taxes. It appears, however, that for a number of years neither the Legislature nor the local administrative officials of Storey County paid any attention to this aspect of the opinion. In 1869 the proceeds of mines were exempted from city taxation by special legislative act.[1] That provision of the revenue act of 1867 which fixed the rate of tax for county purposes on the proceeds of mines in Storey County at 25 cents on the hundred dollars, while other taxes could be levied at $1.50 a hundred, remained on the statute book until 1875 and was adhered to in the intervening years.[2] The amendment of 1875, while it repealed the specific provision above mentioned, did not, in set terms, require that the rate should be the same on all property, and the Board of County Commissioners of Storey County, ignoring the opinion of the Supreme Court, adopted a strained interpretation of the law which made the rate discretionary and fixed the county tax rate at 35 cents for the proceeds of mines and $1.35 for other property.

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[1] Statutes of Nevada, 1877, p. 175–6.

[2] Statutes of Nevada, 1885, p. 49.

There had been an ambiguity in the law relating to local school taxes from the beginning of state legislation, and apparently this ambiguity, while removed by the court opinion previously mentioned, had been wrongly interpreted by the local officers in such a way as to exempt the proceeds of mines from local school taxes. A similar situation existed in connection with the special railroad bond tax of Storey County and this exemption was the more strikingly unjust because of the peculiar circumstances under which these bonds were issued. The direct economic advantages derived from the building of the Virginia and Truckee Railroad lay almost wholly with the mine owners. Through its construction the costs of mine operation were greatly reduced because of the reduced expenses for transportation of ores, of fuel, mining timbers, machinery, and all other materials. Moreover, the chief owners and promoters of the railroad were the men who were most prominently connected with the mining interests, and one would not be far wrong in saying that these big mine owners were, in the construction of this railroad, building an addition to their mining equipment. Under these circumstances there was no good reason why the public should have been taxed in aid of the road except that public aid for railroad building was fashionable at that time, in some cases being justified by considerations of public policy.

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[1] Statutes of Nevada, 1869, p. 163-4.

[2] Biennial Message of Governor, 1875, p. 11, and report of Controller for 1874, p. 94-99.

But this grant of $300,000 aid to the mine owners who were building themselves a railroad is the more astonishing when one learns that the grant was made under laws which exempted most of the property of the chief beneficiary from the taxes necessitated by reason of this aid. The aid was extended in 1869–70 by means of two issues of bonds amounting to $300,000, bearing seven per cent interest and payable in six, ten, and fifteen years; to meet these payments a tax was levied on all property *except the proceeds of mines*—this, too, in face of the opinion of the Supreme Court (1867) that all ad valorem taxes must be equal.

Finally in 1875 application was made to the Supreme Court for a writ to compel the levy of all of these local taxes in Storey County in accordance with the constitutional requirement and, while the writ was denied on a technicality, the opinion of the court sustained the major contention of the petitioners that these taxes should be levied uniformly as to rate on the proceeds of mines as well as on other property.[1]

During the whole earlier period of active mining development in which the mines of Virginia City figured most largely, the question of taxation in relation to mines was one of controversy, in the Legislature, in the constitutional conventions, in the elections, in the Assessor's office, and in the courts, and the controversy was often marked by great persistency and bitterness. During the more recent period of mining activity in which the mines of Tonopah, Goldfield, and Ely have been most prominent there has been comparatively little controversy on this question. It would appear that out of the battles of the former period the people have evolved a system of taxation for the proceeds of mines which, if not ideally just, is at least practicably workable and about abreast with public opinion. Doubtless the great increase in property values generally in the last thirty years has made the people more careless about the question of mining taxes. On the other hand, the mines have, in the main, paid their taxes under the existing laws at the regular ad valorem rate without litigation involving important principles. They have paid the regular ad valorem rate for state and local purposes and, in returning the net proceeds, it does not appear that they have been guilty of greater evasions than some other important property interests.

A few recent minor changes in the laws should be mentioned. In 1891 the mode of computing costs of operation was made more definite by a provision to the effect that in computing expenses no account shall be taken of expenses incurred previous to the quarter for which the assessment is made except in the case of mines producing less than one ton of ore a day, in which case the expense for previous quarters within the space of a year may be counted.[1] In 1905 the office of State License and Bullion Tax Agent was provided for, and to the activity of this officer (1905–1913) the more effective working of the old law may be attributed in a large degree.[2]

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[1] 11 Nev. 235.

In 1913 the Legislature conferred upon the newly created Tax Commission the power to determine the value of the net proceeds of mines, particularly enjoining the commission not to permit of any excessive deductions for transportation or reduction introduced to defraud the State of its just revenue. Acting under its ample authority the commission is meeting with success. The commission in its efforts to secure uniformity in assessments has adopted, temporarily, a procedure which illustrates the difficulty involved in passing from an old system of underassessment to a more perfect system when the constitution and the laws are excessively rigid. After determining the actual value of the net proceeds of a mine for a given quarter, the commission fixes the value for assessment purposes at some per cent of this actual value—70 per cent in 1915.[3] This is to correspond with an estimated similar undervaluation of other property.

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[1] Statutes of Nevada, 1891, p. 162.

[2] Statutes of Nevada, 1905, p. 226.

[3] See 3 Nev. 179.

Now it is doubtless true that other property is undervalued, but there is at least a possibility for an Assessor to regard the assessed value of other property as the actual value in most cases, because there is a contingent element in the determination of value. For example, the value of a farm or a stock of goods may be much less than it is ordinarily considered to be. One can be certain of the value only after selling it. But in case of the net proceeds of mines there is no such contingency, and hence the Assessor cannot possibly believe the value of the net proceeds to be only 70 per cent of the actual value. It is all a matter of history. The bullion has been produced, the costs have been paid, the product marketed, and the account closed. The actual net proceeds are certain and there is no ground on which they can be scaled down for risk or future contingency. It is the policy of the Tax Commission to advance all valuations gradually until they conform to actual values, and not until this is accomplished will it be possible to be wholly consistent.

It is probable that since 1867 the taxes on the proceeds of mines for state purposes have been assessed and collected with as much efficiency as have most other taxes, and the same may be said as to local taxes since 1876. It is true that mine owners have evaded some of their taxes through the device of reporting excessive costs of mining, transportation, and reduction, and that, in a few cases, profitable mines have by this device almost escaped taxation, but it is also true that owners of other taxable property have evaded taxes by understatements of value or quality. On the whole, there is reason for believing that since the creation of the office of State License and Bullion Tax Agent in 1909 the evasions have been even smaller in the case of the mines than in the case of some other important classes of property, and there is a degree of probability that the same was true for a much longer period, a few remote mines excepted. It seems highly probable that, with the exception of the years 1865 and 1866 and with a further exception extending to 1875 in the case of local taxes in Storey County, the taxes paid on the proceeds of mines have constituted about as high a proportion of the total revenue as should be expected under the present constitution.

It may be well to consider on its merits the chief question of controversy in the constitutional convention and of the early period of statehood. Do the mining interests pay their fair share of the taxes as compared with the one other basic industry of the State—agriculture and stock raising? During the entire history of the State the proceeds of mines have paid directly less than fifteen per cent of the state ad valorem taxes, and in the last ten years, a period of large scale and profitable mining, they have paid less than eight per cent. This, of course, does not represent the entire tax paid by the mining interests, since the mining equipment, including operating machinery and reduction plants, is assessed and taxed like other property. Moreover, some part of the taxes paid by the business interests of mining camps and by railroad and other public-service corporations which serve the mining camps is shifted to the mines in the form of higher wages and higher prices for materials and transportation.

The data necessary to a determination of the taxes paid on various classes of property are more fully available for 1916 than for any previous year. In that year the valuations taxable to the mining interests were as follows:[1]

1. Net proceeds of mines	$14,860,569
2. Mine improvements and mills	9,267,296
3. Patented mining claims	2,187,843
Total	$26,315,708

For the same year the valuations taxable to the agricultural interests were as follows:

Land[2]	$23,567,276
Live stock[3]	14,300,000
Other property, buildings, etc.	2,172,865
Personal property—farm machinery, etc.	1,222,362
Total	$41,262,503

According to these figures the agricultural interests paid about 23.7% of the state ad valorem taxes, while the mining interests paid 15%. Moreover, this was a year of unusually large net proceeds of mines because of the high prices prevailing for silver and copper, and hence we may assume that the relative amount of taxes paid by the mining interests has averaged even less than for 1916. It is probable that the taxes which are shifted from other property to these two basic industries in the form of wages, costs of materials, and transportation rates are important to the question, but there is no means of determining the relative amounts so shifted. But since the two industries employ approximately equal numbers of workers,[1] and since both export their products and import most consumption goods and equipment, there is no ground for assuming any marked inequality in this respect. Perhaps the excess lies to some extent on the side of the mines so that after making due allowance for this shifted tax the mines may have paid from two-thirds to three-fourths as large a state tax as have the farm and livestock interests.

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[1] Based on data found in the report of the Tax Commission and in that of the State Controller for 1916.

[2] Railroad grant land not included.

[3] After making deductions for animals owned in cities and towns.

Whether this constitutes a fair apportionment of the burden of taxation as between these two basic industries is not easily determined—is not determined with a high degree of certainty such as to command universal assent—but certain considerations indicate that for a period of great prosperity, the taxes paid by the mining interests have been too low as compared with those of the farmer. The cost of government incident to the existence of a mining population is probably not less per worker than for an agricultural community and there are about fourteen per cent more workers engaged in mining than in agriculture.[2] Apparently the benefit of government is not less for a mining community in proportion to the population than for a farm community. The ability of the mining interests to pay cannot be considered inferior to that of the farm interests when one reflects that in recent years the gross value of mineral products has averaged approximately twice as great as that of the farm and livestock products. Indeed, the aggregate net profits of mining for some recent years have been greater than the gross receipts of farm and stock interests.

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[1] According to the census of 1910, there were in the State 9,834 persons whose occupation was the extraction of minerals, and 8,770 whose occupation was agriculture.

[2] U. S. Census of Occupations, 1910.

Furthermore, the net income from mining represents the gift of nature and society as largely and as truly as does that of agriculture, and the miner through his operations impoverishes the State through the depletion of its natural resources without leaving lasting improvements of relatively great value, while farming ordinarily conserves more fully the interests of society through the creation of improvements which render the land permanently more useful to mankind.

In the constitutional convention and in the later controversies there was advanced an argument for giving the mines special consideration which was in part valid and in part erroneous. In general, the argument runs as follows: Mining operations are accompanied by unusual risk. Most enterprises result in a net loss. In the case of a successful mine there is a period of doubt and uncertainty when the miner has not property but only hope. Sometimes there is a long period of small production just on the border line between profit and loss. If there is to be any precious-metal mining at all, these prospectors and hoping investors must be encouraged to continue their operations, since all old mines cease to be productive, and only by the constant discovery of new bodies of ore can the mining industry continue prosperous. Now society properly gives the industry encouragement by exempting the mine from taxation until it is earning a net profit above the cost of operation and by taxing the profit at a low rate. If certain lucky investors secure fabulous profits, such gains serve a public purpose in stimulating the prospectors and investors in unproven enterprises. If through such encouragement mining is aided so that it is prosperous, it will contribute to the general prosperity of the State by furnishing occupation for labor, by creating profitable markets for hay and other farm produce, and by stimulating business activity generally.

The validity of the argument may be admitted in so far as the following points are concerned:

1. The business is accompanied by unusual risks, and there must be a possibility of large gains in order to induce men to assume these risks.

2. The general business prosperity of Nevada is advanced by mining activity, although the dependence is not so great as in earlier years.

3. As long as the development of mineral resources is secured through private enterprise, special encouragement should be given to the prospector and the men who invest their capital in the development of new mines. It would be well to go even further than the present law does by exempting equipment for development work where not carried on in connection with profitable operations. So much may be conceded to the necessity of encouraging a hazardous business.

But, taking into consideration not only the mines that fail, but those which are superlatively rich, it appears that the industry, as a whole, is well able to bear its proportionate share of the cost of government. The difficulty has arisen from the lack of a system which would adjust the burden properly. The improperly adjusted burden is all too heavy in the case of the mine whose gross proceeds are never sufficient to pay the whole expense of development and operation, but which is taxed on the so-called "net proceeds" of a few quarters during which the best ore is being removed. On the other hand, a much higher rate of tax could be paid easily by a mine rich in high-grade ore, and where millions of profit are made on the basis of a relatively small investment. It is good public policy to encourage prospecting and the development of mining claims of unproved value by exempting such prospects and claims from taxation while the character of the property is being tested. Since the State maintains government for this tax-exempt property and schools for the benefit of the mining population, it amounts to a bounty on development work, and, in this sense, mining is, for a time at least, a subsidized industry. The State shares the risk, and in many cases both the mine owner and the State are losers.[1]

But if it is right for the State to share in the hazards and losses of the mining industry, it is also right for it to share in its good fortune. In short, the tax on the proceeds of mines should be graduated with full exemption for all development costs and with a low rate for the mines which yield little in proportion to total costs, but with an increasing rate according to the richness of the mine. Such a tax would be more nearly just than the present from every point of view and would serve even better than the present tax to encourage mining at the stage where encouragement is most needed. The tax must not be so high as to prevent the creation of great fortunes under the most favorable conditions, but it may be high enough to permit the State to share in the good luck of the fortunate few. If there were a special tax on the net proceeds of mines graduated according to the profitableness of the enterprise, even a very high rate on the richest mines would not discourage operation and, what is more, it would not destroy the effect of such instances in encouraging the poor prospector and the hopeful investor. Lake Michigan, to a man standing on the shore, appears to be about as large as the Pacific Ocean. A chance to make a million dollars has about the same stimulating effect on the mind of the average man as a chance to make ten million. Since the high tax would be paid only by the very fortunate mine owner, no one would fear it in advance. All would hope for the opportunity to pay it. Moreover, the mine should pay an excess of tax in the period of its prosperity to cover in part the cost of government during the later period when it may be operated at little or no profit and, when, consequently, it fails to pay its way governmentally, and to cover the cost of maintaining the insane, the paupers, and convicted criminals who may remain public charges after the camp that furnished them has been deserted, or after it has lost its ability to pay taxes.[1]

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[1] A certain small mining camp called into existence by a mine which had been operated for about ten years, but which had not made good, had a Justice of the Peace and a Constable maintained at the expense of the county, and a public school maintained largely at county expense. Probably the county was to some expense for crime, litigation, and road maintenance on account of the camp, but omitting these items and including only expenditures for the Justice of the Peace, the Constable, the school, and the election, the county made expenditures for this camp during a certain typical year amounting to a sum more than ten times as great as the county taxes paid by the camp. Naturally the taxes were small because the land was of trifling value, the houses were mere shacks, the mining equipment was worth but little more than its value as junk, and there were no net proceeds.

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[1] An extreme instance of an old unprofitable mining camp failing to pay its way governmentally is afforded by a certain county containing such a mining camp and very small population outside of the mining district. In

It is never possible for a system of taxation to be governed wholly by strict theoretic considerations. It must be adapted to the political and social ideas of the time and must be capable of enforcement through existing or attainable administrative agencies. Possibly the system of taxation of 1867–1880 was about as good as was possible for those days—considering the state of public intelligence on the subject of taxation, the biases, the prejudices, the special interests, the weakness of human nature, the rather inefficient administrative machinery of government, the strong spirit of individualism, and the unusual features of the economic situation. The State Controller evidently had some such considerations in mind when he wrote in 1876 that our system of taxing the proceeds of mines was as nearly just as any system that would yield any revenue at all.[1]

But Nevada has made progress in the direction of economic stability and political efficiency since that time, and it is highly probable that the State will be able in the next score of years to modify its system of taxation in the direction of a more exact justice, and to administer such a system effectively. If the question of such readjustment should receive practical attention, the change from the old to a better new system might be facilitated by making the new law apply only to new enterprises.

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a recent year this county received as its share of the state school money a sum almost twice as great as it paid in state taxes. At the same time the State was maintaining in the State Hospital for the Insane twenty-seven inmates committed from that county.

[1] Report of the State Controller, 1874, p. 10.

MORAL ASPECTS

There is a moral aspect to all questions of taxation, but the moral question is not so simple as it seems to be to the average man who has given the question a little thought. There is some tendency in the popular discussion of the subject to maintain the view that the real problem is almost, if not wholly, one of honesty—how to get men to adopt a constitution whose provisions are dictated by considerations of public interest and not of private greed, how to get honest legislators, honest administrative officials, honest courts, honest taxpayers.

The view here taken is that it is not altogether a matter of honesty, but largely one of public intelligence. If the people once clearly see things as they are, the number who will oppose right action through dishonest motives will be far too small to be effective. Without this general intelligence necessary to wise public action, it is probable that some of the most honest and well-meant individual efforts toward the right would fail to work in the direction of real justice.

Looking at the whole question of mining taxes from this point of view, I would say that the conduct of the mine owners in paying as little tax as possible does not call for any unusual moral reprobation. They were just about like the rest of us. It is a commonplace that if taxes can be evaded they are not paid. The mining interests of the early history of the State enjoyed some unusual advantages. They were strong, and in the confusion of ideas as to what was right it was not at all strange that the strong decided the issue in their own interest.

In more recent years little thought has been given to the subject. By force of custom, people have come to regard the present system as about right in theory and they are demanding better enforcement. The confusion of ideas still persists, and hence, in the face of a constitutional provision, there has been little effort in the direction of serious readjustments in the law itself, and the special favors won by the big mining interests of early days continue to be enjoyed by their successors.

Doubtless the people of Nevada will in the not distant future consider anew some of the more fundamental questions of taxation. The growing importance of agriculture and of other interests, and the increasing economic stability of the State will soon justify a reconstruction of our revenue system, and when that time comes it is possible that a more just method of taxing mines will be found.

CHAPTER V

THE GENERAL PROPERTY TAX

In early American history, when state taxes were small and when industry was not greatly diversified, the general property tax worked no serious injustice. Since our industrial organization has become more complex, since the need for public revenues has multiplied, and since the forms of intangible property have become so numerous and the quantity so great, the general property tax no longer fits the situation. It is defective from the standpoint of every theory of taxation and has broken down in practise.

As a consequence of the more or less clear perception of the failure of the general property tax to secure equitable results, all parts of the United States are going through the experience of trying to reform taxation. The earlier efforts usually take the form of provision for better administrative machinery on the theory that the system would be all right if it were effectively administered. But the more efficient the administration the more evident it is that the system is wrong in its fundamental features, and so we find a tendency more or less general to abandon the general property tax in favor of a system better adapted to present conditions. In this movement, many of the States, including Nevada, are hampered by constitutional requirements which permit of no consistent policy of reform. In such States there is a tendency to evade the provisions of the constitution by means of legislation some of which has never been tested in the courts. Some features of the system have been nearly if not quite nullified by administrative practises which, because of their universality and long continuation, might be regarded as a part of the unwritten constitution.

Some States had fewer constitutional restrictions, while others have in recent years amended their constitutions so that they are able to proceed in a frank open way and to abandon all pretense to a general property tax. These States are in process of devising systems of taxation adapted to the needs of the Twentieth Century. This movement is supported by the experience of the nations of Europe, and it is in harmony with the best thought of students of financial science in America.

In Nevada the general property tax was made a part of the organic law, the constitution exempting mines, mining claims, and public property only.

> The Legislature shall provide by law for a uniform and equal rate of assessment and taxation, and shall prescribe such regulations as shall secure a just valuation for taxation of all property, real, personal, and possessory, excepting mines and mining claims, the proceeds of which alone shall be taxed, and also excepting such property as may be exempted by law for municipal, educational, literary, scientific, religious, or charitable purposes. *Constitution, Article X, as originally adopted.*

The general property tax is not, in practise, just what it purports to be. Some forms of property are pretty generally taxed, but the assessments are far from uniform. Other forms of property are able to evade taxation in part but not wholly, and still other property escapes altogether or with insignificant exceptions. In the following sections the general property tax in its relation to the more important classes of property is discussed.

TAXATION OF REAL ESTATE

Under ordinary conditions real estate is quite generally assessed, the property not being easily hidden, and the ownership being a matter of record. But Nevada does not present ordinary conditions. The great size of many of the counties and the great stretches of uninhabited country have made it easy for the Assessors to miss some land.[1] The problems here are almost wholly administrative, and under the more uniform procedure brought about through the agency of the Tax Commission it is pretty certain that nearly all taxable land is assessed.

There are unusual difficulties in the way of ascertaining land values in Nevada. Because of the size of the holdings, they do not often change ownership, and hence the actual market value is not known. A large range may include some first-class irrigated land, other land capable of being irrigated during the spring months only, some first-class mountain pasture land, some worthless alkali flats, some stony mountain peaks, and all grades and variations between these extremes. The value of the owned land cannot be very accurately determined by the quantity of live stock owned by the land owner, because the sheep and cattle live chiefly on public land. Some pretty large sheep owners own no land, but this condition was more common twenty years ago. If the owned land did give the owner an absolute control of a certain area of public land, it could be valued for what such control would be worth. But the control is incomplete, uncertain, and extra-legal, being maintained in part by the use of fear and intimidation. Doubtless it has a real value, but such value depends upon the policy of the National Government relative to the pasturage of public lands and upon the keenness of competition of rival stockmen. Moreover, the value of range land varies with the price of beef and mutton, and consequently it has increased notably in the last fifteen years. For these reasons the tendency to under-assess ranch property has been marked and the under-assessments appear to have been greatest in those sections where the holdings are largest.

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[1] Data in possession of the Tax Commission show that about five per cent of the taxable land was unassessed in 1912. Other information indicates a much larger deficiency.

Before the creation of the State Tax Commission it was the custom to assess all the range land owned by a certain owner in a given county at a uniform price per acre, although some thousands of acres might be almost valueless and other thousands of acres situated fifty or one hundred miles distant might be worth much more than the assessed value. The aim was to get a reasonably satisfactory total. Had there been small local units of taxation such as townships, school districts, or road districts this would have involved some serious difficulties.[1] Appropriate classifications have been made by the Tax Commission in recent years.

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[1] Very few school districts, and those chiefly the village and city districts.

In 1911 the Legislature enacted a law providing for a minimum value of $1.25 per acre for all lands.[1] This was intended to prevent the underassessment of railroad grant land and of range land, it being assumed that all land was worth at least this amount. The act is of doubtful constitutionality, since there are many whole sections which are, beyond doubt, worth less than the minimum—perhaps worth nothing at all.[2]

The actual value of city and village real estate is more easily determined since it is sold more frequently, and its rental value is ascertainable. Most of such property belongs to small owners who do not bother the Assessor with protests. The fact that values are more uniform for certain sections of the city than for ranch property contributes to uniformity of assessments. Consequently city real estate has been more uniformly assessed and the rate is higher in proportion to value. Still there have been marked inequalities even in the city.[3]

TAXATION OF LIVE STOCK

The assessment of range live stock in the earlier period of this industry presented some features of unusual difficulty. The stock, particularly the sheep, pastured

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levy local district taxes. The schools are supported by state and county taxes. The roads are maintained by county taxes. There are no township taxes.

[1] Statutes of Nevada, 1911, p. 101.

[2] The Supreme Court has held that the law of 1913 creating the Tax Commission conferred on that body the power to establish a lower valuation for land not worth so much as $1.25 per acre, but that the law of 1911 applies so far as County Assessors are concerned. The constitutional question was not decided. (38 Nev. 112.)

[3] In March of a certain year there were two pieces of real estate sold in Reno, one being a highly valuable business site and the other a modest residence lot. The residence lot was assessed at the purchase price exactly and the business site at only eight per cent of the purchase price.

over great stretches of mountain and desert range extending into several counties, and frequently dodged the Assessor by crossing county or state lines. The cattle of several owners commonly shared in the use of the pasturage of a district. Ordinarily neither cattle nor sheep were fed in winter. The owners did not know very accurately the number of animals owned. Sheep shearing gave an opportunity for a count, but this occurred in many cases after assessment time. The loss of cattle and sheep on the range during the winter and spring was considerable and sometimes very great. Because of the uncertainty as to numbers and, further, on account of the fact that a late winter storm might be fatal to many animals already weakened by the rigors of winter and the lack of sufficient feed, it became customary to assess only a part of the sheep and cattle. The stockmen did not feel that they should pay tax on dead animals, and so they made large allowance for bad weather with its possible results. The Assessors could not make a personal count, and they were very conservative in using their opinions as against the claims of the stockmen. As a consequence, the custom of assessing only a part of the live stock was established.

In more recent years the conditions have changed. Cattle are commonly fed in winter. Counting is possible at feeding time and at branding time, and sheep could be counted, not only at shearing time, but in connection with dipping for disease prevention and in connection with the use of the forest reserve. Moreover, better care and feeding have greatly reduced the risk due to bad weather conditions and infectious diseases. But in spite of the improved conditions the custom of reporting only a part of the live stock continued, and it is not improbable that the situation became even worse, due to the tendency of Assessors to repeat the assessment of the previous years when the industry was growing. The rapid increase in the number of animals assessed in the years immediately following the creation of the State Tax Commission (1913) may be due in some small measure to a real increase, especially in the case of sheep, but it is chiefly the result of the more vigorous effort to get a correct count.

NUMBER OF SHEEP AND CATTLE ASSESSED IN RECENT YEARS

Year	*Sheep*[2]	*Cattle*[4]
1912[1]	500,000	160,000
1913	687,751	192,000
1914	1,221,448[3]	232,000
1915	794,840	276,428
1916	883,219	285,145

In the case of ordinary farm live stock the assessments have been more accurate since it has been easy to secure accurate counts.

The determination of the situs of range live stock for purposes of taxation involves some special considerations because of the wide area over which sheep and cattle may travel. The Supreme Court has held that the situs of cattle is not controlled by the mere residence of the owner, but if the cattle are cared for and managed from a home ranch their situs for taxation is fixed by the location of such ranch, even if they do at times pasture in some other county. On the other hand, if the cattle are bred, born, branded, and raised in a certain county, that county is their situs, even if the owners live in another county.[1]

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[1] Approximate.

[2] Lambs excluded.

[3] The number assessed after allowing for range losses assumed to be 25%. The actual number of sheep was over 1,600,000.

[4] Calves excluded.

By later legislative enactment the situs of range live stock has been further defined in such a way that range live stock owned by nonresidents is taxable in the county where first found and assessed, and the taxes are assessable and collectible at any time. The previous payment in another State constitutes no bar to their collection in this State.[2] Stock owned by residents and driven or removed from one county to another for grazing is taxable in the county where first found and assessed, except that if the owner has a home ranch in another county where the stock is grazed for a part of the year, the situs is the home ranch.[3]

SPECIAL LIVESTOCK INSPECTION TAXES

A special ad valorem tax on sheep is levied under an act of 1907, amended in 1909.[4] The tax is levied by the County Commissioners on request of the State Board of Sheep Inspection, the request being in effect a mandatory order. The rate is determined by the Board of Sheep Inspection, provided that it shall not exceed twelve mills on the dollar of assessed valuation of all sheep. The revenue derived from this tax constitutes a special fund in the hands of the State Treasurer out of which the expenses incurred under authority of the State Board of Sheep Inspection are paid.

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[1] 17 Nev. 383; 20 Nev. 446; 21 Nev. 223.

[2] Statutes of Nevada, 1895, p. 55.

[3] Statutes of Nevada, 1903, p. 65.

[4] Statutes of Nevada, 1907, p. 235; 1909, p. 74.

A similar special tax on cattle, horses, and hogs is levied on request of the State Board of Stock Commissioners.[1] The rate must not exceed six mills on a dollar and the revenue constitutes a special fund to pay expenses incurred under the authority of the board for the purpose of controlling infectious diseases and otherwise conserving the interests of the livestock industry. There is ground for doubt as to the constitutionality of both of these acts in so far as they provide for special ad valorem taxes, since the Supreme Court has held that all ad valorem taxes must be of uniform rate.[2] These special taxes make the rate higher on live stock than on other property. If the revenue were collected in the form of a license tax there would be no doubt as to its constitutionality.

THE TAXATION OF CERTAIN FORMS OF INTANGIBLE PROPERTY

The uniform taxation of notes, bonds, bank deposits, accounts receivable, and corporation stocks under the provisions of the general property tax is impossible because, under our administrative system, the ownership of such property is easily concealed, and if concealment should be made difficult the situs is easily changed. A tax that can be evaded so easily is just a voluntary contribution, and is not made except by a few ignorant or very conscientious individuals. Such a tax is contrary to public policy in that it is essentially a tax on honesty. The failure to assess such property is a defect that could be cured in part by appropriate legislation, but the trouble is inherent in the system and the most effective legislation could not be more than half successful, and this would make matters worse by reason of the inequality. Moreover, such taxes are, from the economic point of view, double taxes and hence contrary to public policy.

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[1] Statutes of Nevada, 1915, p. 396.

[2] 3 Nev. 177; 4 Nev. 200.

It is evident from the debates of the constitutional convention that the members of that body intended to make such property taxable, and the first State Legislature, which met a few months later and which had in its membership several members of the constitutional convention, proceeded to enact a law providing for the assessment and taxation of personal property which was defined to include "all chattels of every description, all money on hand, or on deposit in bank or banks, or with individuals, all money at interest secured by mortgage or otherwise, * * * solvent debts other than those mentioned in this section when the amount exceeds the same character of indebtedness of the party assessed; * * * the capital stock of all corporations (except the capital stock of corporations organized for mining purposes), companies or associations or individuals doing business or having an office within the State; the money, property, and effects of every kind, except real estate, of all banks, banking institutions or firms, bankers, money lenders, and brokers, and all property of whatever kind or nature not included in the term real estate as said term is defined in this act."[1] Elsewhere an exemption was provided for the owner of stock in any firm, corporation, or association, "the entire capital of which is invested in property which is assessed and taxed."[2]

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[1] Statutes of Nevada, 1864–5, p. 274. [2] Statutes of Nevada, 1864–5, p. 276.

Even in this first law we see the Legislature unwilling to go the full length of the theory it worked under, granting exemption for two sorts of property under certain conditions.

TAXATION OF MORTGAGE-SECURED LOANS

The first revenue act in Nevada provided for the taxation of mortgage-secured loans[1] and for several years mortgages were taxed, but the amount of this sort of property assessed became less as the years passed, and eventually mortgages were almost wholly exempt in practise while the law still provided for their taxation.

Since loans secured by mortgage are matters of public record, it is easy to tax such securities, but when laws adequate to this purpose are enacted the effect is to place a double tax upon the borrower, who pays one tax on the property mortgaged and another in the form of higher interest.

As a matter of fact, most laws purporting to tax mortgages are easily evaded—sometimes by all lenders, sometimes only by nonresident lenders. Where the law is of such a character as to discriminate against resident lenders it tends to raise the rate of interest to the borrower without resulting in a corresponding revenue to the State. The same result comes from laws which can be evaded through fraud. The lender evades the tax by fraud, but this involves a certain risk and the borrower pays for the risk. Likewise, when mortgages are exempt to certain owners such as banks, but not to all owners, the tendency is to concentrate the business in the hands of the favored institutions and to raise the rate of interest. It is a matter of knowledge that some lenders have left the State in order to escape taxes on their mortgage-secured notes. In other cases the notes have been made out in the name of a nonresident relative of the lender. In other cases a deed with a secret contract has served the purpose of evasion.

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[1] Statutes of Nevada, 1864-5, p. 174.

In 1877 mortgages were, by act of the Legislature, exempted from all taxation,[1] but the act was declared unconstitutional by the Supreme Court in 1882.[2] In 1907 the Legislature passed a resolution for a constitutional amendment having for its purpose the reduction of the assessment of mortgaged property by the amount of the debt so secured, but the resolution failed of passage at the hands of the next Legislature.[3] In 1911, however, an act of similar intent was passed by the Legislature[4] without waiting for constitutional authorization. By common consent this law was ignored, and in 1912 it was repealed. Again, in 1913, mortgages were by law practically exempted from taxation on the theory that they represent an interest in the property mortgaged.[5] The law declares that the assessment of mortgaged real estate shall be deemed as the assessment of the mortgage, but the exemption does not apply in the case of the mortgaged real estate of public-service corporations.

This is, in effect, an exemption of mortgage-secured notes. Whether the Supreme Court would sustain the exemption under the theory of this act may never be known, for the exemption appears to meet with such universal approval that there is no certainty that a test case will arise. Doubtless this complete acquiescence in the law arises in part from the knowledge that mortgages had been for many years practically exempt through the defects of administrative procedure. The law is a mere theoretical recognition of an accomplished fact. If, however, the exemption of such mortgages involved a higher rate of taxation on other property, the owners of such property, particularly public-service corporations, would have a strong case against the constitutionality of the law in that it does in fact exempt a species of property which, according to a decision of the Supreme Court, must be taxed under the constitution and in that it makes a discrimination against mortgages on the property of public-utility corporations. No case touching the exemption of "debts" (accounts receivable) to the extent that they are balanced by accounts payable has ever come before the Supreme Court, and the same is true as to the acts of 1864 and 1865 in which the shares of stock of a corporation were exempted in case its entire capital was invested in taxed property.

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[1] Statutes of Nevada, 1877, p. 185.

[2] 17 Nev. 146.

[3] Statutes of Nevada, 1907, p. 452.

[4] Statutes of Nevada, 1911, p. 352.

[5] Statutes of Nevada, 1913, p. 578. A similar law in California was enacted after special constitutional authorization was secured.

These three legal exemptions of doubtful but untested constitutionality suggest a method of evolution under a rigid misfit constitution. If we wait until there is a unanimous desire for an unconstitutional measure, we may proceed safely on the assumption that there will never be a test case.

There are other forms of property equally entitled to exemption from taxation. It is not easy to see why an unsecured note should be taxable while a mortgage-secured note is exempt, and the case is fully as strong for accounts receivable even when not balanced by accounts payable. There is no good reason for taxing bank deposits, and there are some good reasons for exempting them. If the State were to create an administrative system capable of placing such property on the assessment roll, it would be disastrous, not only to the banks, but to the business community generally. With taxes approximately equal to the rate of interest in savings banks, it is probable that many depositors would transfer their deposits to ~~the~~ banks of some other State where they could not be reached by the Assessor. Doubtless the cause of the acquiescence of the people in the legal discrimination against these forms of property is found in the fact that evasion has been so easy that there has been no felt need for legal exemption.

TAXATION OF BANKS

Ordinarily the assets of a bank are, for the most part, balanced by its deposit liabilities—its debts. As a consequence it makes a very great difference whether a bank is taxed on its entire assets or whether the tax is levied on the value of the shares alone as permitted by the federal law relating to national banks. Consider the case of a bank with stock worth $200,000 and with assets worth $1,000,000, where the tax rate is $3 on the hundred, a rate not uncommon in Nevada. If taxes are paid on the value of the shares only, they will amount to $6,000; if paid on total assets, the tax will be $30,000.

Now the first revenue law in Nevada provided for a tax on the entire assets of all banks, including real estate, money, furniture, securities and "effects of every kind" and "all property of whatever kind or nature,"[1] and this law remained on the statute books without modification until 1907 when provision was made for taxing real estate to the bank and the shares of stock to the owners with other assets exempt as they had been for national banks in the beginning.[2] It is hard to see how the state banks could have continued to do business under this gross discrimination had the law been strictly enforced.[2] At a matter of fact they were assessed in about the same way as were the national banks. The chief provisions of the law of 1907 were followed in practise long before the law was enacted.

All in all, the State secures but an insignificant revenue from the taxation of money, bonds, mortgages, notes, accounts, and shares of corporate stock, aside from bank stock. In most cases the collection of such tax, if made effective, would be double taxation in an economic sense and would be unjust to the business interest concerned. Because of their common evasion they are the more unjust in the few cases where they are imposed. The law requiring the taxation of such property has little effect except to teach deception, evasion, and fraud, and to the extent that there is any other effect, it is to handicap the honest man and the business of the community. In view of these facts, which have been demonstrated by the experience of every American State, it would appear to be the part of wisdom to amend the constitution in such a way as to permit such changes in our tax laws as may be dictated by considerations of justice and efficiency. While some progress might be made through a strained construction of the constitution or through general assent without a judicial test, it is better to rely upon an outright change in the fundamental law so that the Legislature can deal with the whole problem of property classifications consistently.

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[1] The act of 1865 was intended to apply to all banks, but this was precluded by the provisions of an act of Congress. By this act (June 3, 1864) the shares of stock in any national bank could be made taxable to the owner and the real estate to the bank, provided the burden of taxation on such banks should not be greater than on state banks or other moneyed capital.

[2] In 1882 the Supreme Court held that a state bank was under obligation to pay taxes on its money and on its mortgage-secured loans, but this was on an appeal based on an act of the Legislature exempting mortgages generally. The question of want of uniformity was not considered by counsel or by the court. (17 Nev. 146.)

TAXATION OF PUBLIC UTILITIES

Under the Nevada constitution the taxation of all public utilities is effected under the provisions of the general property tax. Originally the assessment of such property was left to the various County Assessors, each acting according to his own judgment. Apparently there was, at first, no recognition of the fact that public utilities present special problems in taxation, and, even now, there is no general appreciation of the importance of appropriate classification.[1]

THE CENTRAL PACIFIC RAILROAD

By far the most important public-utility property of Nevada is the Central Pacific Railroad. The construction of this road was begun during the Civil War and was completed in 1869. At this time most of the region along the line was practically uninhabited and the population of the Pacific Coast was so small that there was no probability that the earnings of the road would be sufficient to justify its construction for a considerable number of years.

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[1] "The property of railroad and canal companies constitutes a legitimate class of property for the purpose of taxation—a class which, in order to treat it fairly in the matter of taxation, must be treated separately." (48 N. J. L. 146, 278.) *Cooley on Taxation*, 3d ed. vol. 1, p. 693.

This railroad was built largely for national political reasons.[1] The Civil War furnished an object lesson as to the danger arising from clashing economic systems. It was believed that a railroad system connecting the East with the West would, through its industrial and commercial effects, bind the two sections closer together politically. The aim was national political unity based on national economic unity.

Further national advantages in the way of economy and efficiency in the carrying of mail, in the transportation of troops, munitions, and other war supplies, and of stores for the use of the Government were anticipated.

The National Government, therefore, was justified in giving such aid as might be necessary to secure the construction of the road. This aid was granted by an act of Congress of July 1, 1862, amended by a further act of July 2, 1864. The aid consisted in part of a subsidy loan and in part of a land grant. According to the provisions of this grant the railroad corporation was to receive the odd-numbered sections of land for twenty miles on each side of the line. This land was, excepting mineral land and lands otherwise disposed of, to be patented to the railroad as rapidly as the road should be constructed in sections of twenty miles each, provided that no transfer of title should be made until the railroad company should pay into the United States treasury the costs of surveying the land.

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[1] See opinion of U. S. Supreme Court, 91 U. S. 79-80.

The expectation that the railroad company would receive substantial aid toward the construction of the road through the sale of such lands may have been realized in connection with certain parts of the line, but most of the Nevada lands were for a long time unsalable. In fact they are still unsold. Had the company taken patents for this land it would have been subject to taxation, and, in the absence of any rentals or other revenue accruing from its ownership, it would have been a liability, instead of an asset, for a number of years at least. Through the provision of the law relative to the costs of surveying, the company was able to postpone the patenting of unsalable land and thus to avoid liability for state and local taxes.[1]

But in the year 1886 Congress enacted a law authorizing the taxation of such lands, so far as they were surveyed, but with a provision giving the National Government a prior lien to the amount of the costs of the survey.[2] During the next three or four years the power of the State in respect to the taxation of such lands was clearly defined by three Supreme Court decisions.[3] The survey of the land-grant strip proceeded slowly, but is now complete. The value of such surveyed lands as assessed for taxation in 1898 was $358,192. By 1902 the value was $567,075. In 1903 the rate per acre as well as the acreage was increased and the total value was $1,347,679. By 1916 the figures had increased to $7,569,395.

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[1] It had been decided by the U. S. Supreme Court that such lands were not subject to state and local taxation since the title rested with the Government. (16 Wall. 603; 22 Wall. 444; 115 U. S. 600.)

[2] Act of Congress, July 10, 1886.

[3] 21 Nev. 247.

The Legislature of 1911 enacted a law fixing a minimum valuation of $1.25 per acre on land. This applies to all land, but it has special application to the unsold railroad lands. In general, the lands which are in private ownership are the better lands—lands capable of irrigation, lands valuable for pasturage, for timber, or for other purposes. The railroad land, however, consisting of the odd-numbered sections, was not selected for its value, and consequently a considerable part of such land is of very inferior character. It is probable that the practical effect of this law is to raise the valuation of such land disproportionately—in some cases to a point beyond its actual cash value.

Aside from the taxation of these lands the chief questions relative to railroad taxation arose in connection with the assessment and taxation of the Central Pacific Railroad in the years immediately following its construction. It must be remembered that at this time (1869) the whole question of the relation of the railroads to the public was characterized by great confusion of thought in all parts of the United States, and this confusion extended to the offices of railway managers and attorneys as well as to the halls of legislation and to the courts. The experience of Nevada, in this respect, while less tortuous that that of many other States, includes the development of some special agencies and some special sorts of procedure for the assessment and taxation of railroad and other public-utility property.

It also includes a considerable amount of litigation,[1] through which the meaning of the state laws has been made definite. In March, 1869, the legislature enacted the first special law relating to the assessment of railroads.[2] In the main it was an application of the general property tax law to the assessment of railroads, and it included provisions as to statement of property and value from some officer of the corporation to the County Assessor. This statement was to include: (1) The length of the road in the county and the value thereof; (2) a list of property, real and personal; (3) the whole length of the railroad in the State; (4) the number and value of all locomotives and cars used within the State, and an apportionment of the value of the same to the county prorated to the mileage.

From the language of this act the meaning is not wholly clear. In 1870 the Assessor of Washoe County, in the absence of a statement from the railroad company in the form required by law, proceeded to assess the railroad at fifteen thousand dollars per linear mile.[3] In reaching this valuation he took into consideration data bearing on the cost of construction and also data relative to its earnings and profitableness. The County Board of Equalization later reduced the valuation by about one-half and the company paid the tax on the amount as equalized. As a result of the litigation in connection with this situation, the Supreme Court rendered decisions and opinions which laid the foundation for all later railroad taxation in Nevada.

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[1] The first impression one receives from an examination of taxation litigation is that the Central Pacific Railroad Company has been a party to a disproportionately large number of cases. Further consideration shows that it has had fewer cases in proportion to the amount of taxes paid than some other important interests.

[2] Statutes of Nevada, 1869, p. 184.

[3] In a statement submitted by an officer of the railroad company, but imperfect in form and incomplete in matter, a valuation of $6,000 was given as the per mile value.

It was decided that the action of the County Board of Equalization in reducing the assessment was void, due to lack of jurisdiction.[1] The denial of the right of equalization was the penalty provided by law for a failure to make the required statement. The railroad then contested the payment on nine counts, one of which involved important unsettled principles of valuation.

The railroad company contended that the Assessor had valued the road according to a wrong principle in that he had taken into account the cost of cuts, fills, tunnels, etc., which constitute the road-bed; also in that he had taken into consideration the income and profits arising from the operation of the road, as well as the fact that other portions of the road extend easterly and westerly outside of the county and connect with other roads. According to this contention the legal method of valuing a railroad was to ascertain the value of the land as land—to appraise it in the same manner as adjacent lands of individuals—and to add to this the value of the superstructure—the ties, rails, bridges, etc.—without reference to the profitableness of the road and without reference to other parts of the railroad.[2]

As the court pointed out in its opinion, this contention demanded that nothing be taken into consideration except the unimproved land and the movable material entering into the construction of the track, and that to be considered as old lumber and iron merely. If a part of a railroad which lies within a certain county is considered without reference to its connections, the cuts and fills are worthless and the ties and iron rails are merely junk.

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[1] 7 Nev. 83. [2] 10 Nev. 51.

The decision of the court, which was given in 1875, completely justified the Assessor in considering all items of cost of construction as well as the earnings and profitableness of the road, and the fact that there were other parts of the road outside of the county with connections east and west.[1] The opinion of the court relative to this question, which is characterized by great lucidity, may be summarized as follows:

> 1. No principle of valuation of property for purposes of taxation is prescribed by the laws of this State.[2] The statutes define the different species of property, and provide that every species shall be assessed at its "actual cash value." The owners and Assessors must be guided by those general principles which everywhere determine the valuation of property, independently of statutory rules.
>
> 2. Since, ordinarily, a railroad will not be built unless there is a reasonable probability that it will pay a fair rate of interest on the investment, the cost of construction is *prima facie* the value of the road.
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> 3. If, however, the cost was excessive, due to bad management or other conditions no longer existing, then the present necessary cost

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[1] 10 Nev. 63–77.

[2] Later (1891) the Legislature did by law define "full cash value" as the amount at which the property would be appraised if taken in payment of a just debt from a solvent debtor.

> and not the actual cost becomes the standard for determining value.
>
> 4. If, however, the railroad earnings are not sufficient to pay current rates of interest on the cost of construction, and they are not likely to be sufficient so to do, the road is not worth what it cost. When its utility is less than its cost, its value is determined by its utility.
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> 5. When a railroad does not pay operating expenses and is not likely to do so, the road is worth only what the movable materials used in its construction will sell for, less the cost of removing and marketing them.

The principles above set forth have, with small exceptions, served as a basis for the taxation, not only of railroads, but of other public utilities until recent years. Later decisions have applied the principles to specific cases. Some local roads serving mining camps have suffered such loss of business due to the decay of the camps that it has been necessary to assess them at value far below the cost of construction, mainly on the basis of their utility as determined by a capitalization of net earnings.[1] In a few cases smaller roads have been in a position fairly to claim the application of the "junk" theory of valuation.

In the course of its reasoning the court included the following:

> It (the railroad) might, indeed, if the road were extremely profitable, sell for much more than its necessary cost; but in that case any amount bid in excess of cost would be allowed, not for the road itself, but for its franchise, or

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[1] 23 Nev. 283, and 28 Nev. 186.

> monopoly, or something of the sort, with a value distinct from the road. It would, therefore, be acting on erroneous principles of valuation to *add anything* to the necessary cost of the road on account of its business or profits or franchises; and if, in this case, the Assessor had done so, the appellant would have had just ground of complaint.

It is probable that this dictum has not been of much practical importance in the case of railroads, since ordinarily it has been possible to secure from railroads a just proportion of the public revenues without assessing them at a value beyond the cost of construction, but it has served as a basis through which the express companies and some other public-utility corporations have escaped the payment of taxes on intangible property.[1] An opposite view was taken by the court in a recent case involving the assessment of the Wells Fargo Express Company.[2]

The law relative to the assessment of railroads has been modified from time to time in ways which involve no important principles of valuation or of taxation, the purpose being to secure more accurate assessments through procedure adapted to this special sort of property. In 1873 the clause authorizing the Assessor to take evidence or sworn testimony other than that furnished by the railroad company was omitted, but it is not clear that this had any practical effect.[3] In 1875 it was provided that the valuation made in the statement of the railroad company should not be conclusive, but that the Assessor should value and assess according to his judgment.[1] The word "railroad" was defined more specifically to include the rails, ties, couplings, spikes, bridges, culverts, tunnels, cuts, fills, embankments, the land owned by the right of way, and all structures, fixtures, improvements, and buildings owned thereon or used in connection therewith. It was also provided in this act that the part of a railroad within a county should be assessed as an integral part of a complete, continuous operated line.

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[1] See page 129.

[2] 38 Nev. 505. See page 130.

[3] Statutes of Nevada, 1873, p. 65.

The creation of the State Board of Assessment and Equalization in 1891 involved a temporary advance in the administrative procedure for the assessment of railroads.[2] The board was authorized to assess the main line of all railroads and all rolling stock at their actual cash value and to apportion the value among the various counties according to the number of miles of main track. The railroad companies were required to report to this board statistics as to earnings, debt, stock, dividends, etc. Through the action of this central agency, which had original power of assessment in the case of railroads and the power of review in the case of all other property, there was a general advance in valuations. A comparison of the valuations of 1892, the second year of the operation of this law, with those of 1890, the last year of the old system, shows that the total value of property generally was advanced by 26 per cent; that of the Central Pacific Railroad by 32 per cent; the total of all other railroads by 10.7 per cent; while that on all property excepting railroads was raised 26.1 per cent. These figures do not tell the whole story, but they do show that a little larger part of the taxes were laid upon the Central Pacific Railroad, while the share of the other railroads was reduced—a reduction probably justified by the fact that these roads were in fact decreasing in value due to the decay of the mining camps which they served. The law appears to have been a wise one in that it aimed to secure more equal assessments and in that it provided a central agency with adequate power. It appears that the board achieved a reasonable degree of success along right lines, but the plan met with strong opposition, mainly for reasons not connected with the assessments of railroads, and the board was abolished in 1893.[1] Needless to say, the return to the old system of uncontrolled local assessments resulted in a marked reduction in the total of all valuations. By 1894 the value of the Central Pacific was back almost to the 1890 standard; that of other railroad property was only about two-thirds of the 1890 valuation, while property other than railroads was assessed for a little less than the valuation of 1890. Apparently the good work of the board was entirely lost.

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[1] Statutes of Nevada, 1875, p. 105.

[2] Statutes of Nevada, 1891, p. 57. See Chapter III.

As long as railroads were assessed by the various local Assessors, each acting independently, there was sure to be some lack of uniformity due to the personal equation, and at times this was serious. This defect was overcome finally in 1901 when the State Board of Assessors was created.[2] Under this board the value of each railroad was fixed at a uniform rate per mile for all counties, and a similar procedure has been followed by the State Tax Commission since 1912.

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[1] Statutes of Nevada, 1893, p. 43.

[2] See Chapter III.

In the nine years from 1903–1912 the valuation of the main line of the Central Pacific Railroad increased by 107 per cent; that of all other railroads (chiefly on account of new construction) by 795 per cent; that of all other property by 157 per cent. This was a period of rapid gains in actual value for railroads and for other property as well. Consequently the advance in valuations represents in part a real advance in value and, in part, a gain in the effectiveness of assessments. While it is not possible to establish the conclusion as definitely as desirable, it is probable these efforts of the Assessors to make valuations conform to the legal requirements were more successful in the case of the railroads than in the case of other forms of property. Because of their importance rather more care would be exercised than in the case of other public utilities. The nature and character of the property was pretty well understood. The unit of assessment was the linear mile of line, and the number of miles in each county was a matter of accurate knowledge—not a mere matter of estimate as in the case of the number of cattle and sheep. Furthermore, the Railroad Commission created in 1907 was able to give the Assessors expert information relative to the value of railroads. The facts as to the growing earnings of railroads and as to the value of their stocks and bonds were pretty fully known, while the data as to the rental values and the selling values of land and as to the earnings of other public utilities were much less accurate and complete. Moreover, the railroad companies were, in relation to the work of this commission, placing a rather high valuation on their properties in the interest of justifying their rates for transportation. This, of course, made it a little awkward to contend for much lower valuations for purposes of taxation. Then there was a more or less general opinion that the rates for transportation were excessive and discriminatory toward Nevada, and also that the railroads were not paying their fair share of the taxes. In short, public opinion was such that any movement looking to higher assessments for the railroads, especially for the Central Pacific, was likely to be politically popular. As a consequence of these things, by 1912 the railroads, including railroad lands, were assessed at an amount more than four-fifths as great as the assessed value of all other property, and they were paying a larger part of the taxes than would have been required of them under equal and uniform assessments.

THE TAXATION OF OTHER PUBLIC UTILITIES

Relative to the assessment of public utilities other than railroads there was no special legislation prior to 1903, when the State Board of Assessors was authorized and directed to establish the value of railroads, telegraph and telephone lines, and electric light and power lines. While this act was held to be mandatory with reference to the public utilities named, the Assessors did not collectively establish valuations for the telephone and power lines and, not until 1911, did they fix the value of any telegraph line. In 1910 the Governor tried to secure action in relation to such property, but the Assessors refused on the ground that they did not know enough about the property concerned to enable them to make a just classification and valuation. They did, however, establish a valuation for the Wells Fargo Express Company and for the Pullman Company, using information furnished by the Railroad Commission as a basis for their action. In 1911 they established a wire-mile valuation for the Western Union Telegraph Company and left other telegraph companies to be valued by the Assessors individually. In 1912 the American Express Company and the Globe Express Company were added to the list of corporations whose valuations were established by the state board.

Apparently one of the chief difficulties in the way of adequate assessments for the public utilities was the fact that the Assessors knew very little about the character of the properties. They had no reliable data as to costs, earnings, dividends, debts, etc. Most of them did not understand the principle of valuation for intangible property. The State Railroad Commission, which in 1911 was made a public-service commission, brought an element of experience to the aid of the Assessors.

EXPRESS COMPANIES

The oldest of the important public-utility corporations doing business in Nevada is the Wells Fargo Express Company which, in the early mining period, had developed a large business in the transportation of gold and silver bullion seven or eight years before the first railroad was built to Nevada. While there are at present two other express companies doing business in Nevada, their business is relatively so small that they may be neglected in the discussion of the taxation of such corporations.

The most striking fact in connection with the taxation of the Wells Fargo Express Company is that until very recent years the intangible property escaped taxation. The tangible property consists of a few horses and wagons and a little office furniture, while the value of the intangible property is a hundred times as great.

Perhaps it was a recognition of this peculiar condition that led the early Legislatures to establish a system of licenses for the express company with rates graduated according to business. The territorial laws of 1861 provide for licenses with graduated rates varying from $15 to $100 a quarter for all common carriers engaged in the transmitting or carrying of gold dust, gold or silver coin, or gold or silver bullion from a point within the State to another point within the State or from a point within the State to a point outside of the State.[1] Such taxes were payable for each office maintained by the company. The first State Legislature changed the provisions of the law and established rates varying from $50 to $200 a month, according to the amount of business. In 1875 the graduated scale was abolished and a flat rate of $150 a quarter, to be paid but once in each county was established.[2] This tax was abolished in 1915.

The total state and local ad valorem taxes of the Wells Fargo Company for 1909 amounted to $2,657.74.[3] This would represent a valuation of not far from $150,000. According to the data furnished by the Public Service Commission, the value of the property, tangible and intangible, was $4,000,000. This value was found by capitalizing the net earnings of the company on its Nevada lines at about seven per cent. The property was assessed at a valuation of about $510,000 in 1910.

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[1] A license tax on the interstate business of an express company graduated according to the amount of such business would be in effect a tax on interstate commerce and as such would exceed the power of the state government. (See *Cooley on Taxation*, 3d ed., vol. 1, p. 157.)

[2] Statutes of Nevada, 1875, p. 144.

[3] Minutes of state meetings of Assessors for 1910, p. 117.

This assessment was contested in the courts, the express company contending that in a certain county the total property owned by it was worth only $383.98, while it was assessed at a value of more than $42,000—a sum more than a hundred times as great as the real value. The company was, of course, considering merely its physical property—a little office furniture—while the Assessor had counted in the value of the intangible property. The dictum of the Supreme Court in the case of the Central Pacific Railway Company was quoted in support of the express company's contention.[1] The decision of the court fully sustained the action of the Assessors on the ground that the value of intangible property is taxable and that the situs of such property is where the tangible property is located and where the work is done.[2] The case is now before the United States Supreme Court on appeal.

In 1911 the Legislature enacted a special law, according to which the value of the property of express companies is determined by capitalizing their net earnings at 8%.[3] The actual valuations for 1911 and 1912 were essentially the same as those for 1910. In 1913 the

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[1] See page 122.

[2] 38 Nev. 505.

[3] Nevada Statutes, 1911, p. 391.

Wells Fargo Company was assessed for $1,137,073 as against less than one-seventh of this amount in 1909 and less than one-half in each of the next three years. It is probable, too, that at the time of this marked increase in assessed valuations the value of the property had suffered a serious decrease through the competition of the new parcels post and through the decrease in express rates ordered by the Interstate Commerce Commission. The following year the valuation was reduced to $425,741.

The valuations of most public utilities other than railroads have been advanced considerably since the creation of the State Tax Commission, partly because of the new provision of the law relative to the value of intangible property, partly because of the zealous activity of the commission. The assessments of 1913 were originally made by the State Board of Assessors, but they were equalized by the Tax Commission. In this equalization the commission advanced the total valuations of a considerable number of public utility corporations by 54 per cent. A further increase of 193 per cent of the total of all electric companies and of 75 per cent for gas companies and 58 per cent for water companies, of 71 per cent for street-car and electric railway lines, of 64 per cent for telephone and telegraph lines was made in 1914. In one instance the value as equalized in 1914 was over thirteen times as great as the value as originally assessed the previous year. With a few exceptions these increases represent not a gain in actual value, but more efficient assessments.

THE SITUS OF PROPERTY OF PUBLIC-UTILITY CORPORATIONS

The Tax Commission Act of 1913 provides for the assessment of the property of public-utility corporations including both tangible and intangible property as a collective unit, the value of such property in any county to be in proportion to mileage. The language of the law is as follows:

> The property of all railroad, sleeping-car, street-railway, traction, telegraph, telephone, and electric light and power companies, together with the franchises under which the same may be operating, and the property and franchises of all express companies operating on any common carrier in this State, and which foregoing shall be assessed as follows: Said commission shall establish the valuation of the franchises, roadways, road-beds, rails, bridges, rolling stock, poles, wires, fences, pipes, canals, conduits, rights of way, and other property, or any part thereof used directly in the operation of any such business of any such company in this State, as a collective unit; and if operating in more than one county, on establishing such unit valuation for the collective property said commission shall then proceed to determine the total aggregate mileage operated within the State, and within the several counties thereof, and so apportion the same upon a mile-unit valuation basis, and the number of miles so apportioned to any county shall be subject to assessment in that county according to the mile-unit valuation so established by said commission. The word "companies" shall be construed to mean and include any person or persons, company,

corporation, or association engaged in the business described.

In its administration of this provision the Tax Commission has interpreted the word "company" in two ways—in one way for railroads and in another way for other public-utility property. In the case of a railroad company which owns a main line and a branch line the property has been assessed not as one collective unit, but as two collective units, the branch line being assessed separately as if it were owned by a separate company. In the case of express lines and other utilities a branch line is included with the main line owned by the same company and both are assessed as one collective unit. For example, the Fernley and Lassen branch of the Central Pacific Railroad under the direct ownership of the company which owns the main line of the Central Pacific is assessed as a separate unit at an all-track valuation of $17,258.45 per mile, while the main line is valued at $30,451.84 per mile.[1] On the other hand, the property of the Wells Fargo Express Company, which operates both on the main line and the branch, is assessed as a collective unit, and the valuation in each county was $300 per mile on the main line and on the branch.

The procedure used for the railroads was most nearly in harmony with those general principles of law which determine the situs of property for purposes of taxation, but it does not appear to be warranted by the language of this specific act which requires that the property be assessed as a collective unit, not as two or more collective units. The procedure followed in the case of the other public-utility companies appears to be in strict conformity with the law, but it has the effect of transferring a considerable amount of value from the counties in which it is found to other counties. For example, the business of the Wells Fargo Express Company is carried on chiefly over the main line of the Central Pacific Railroad, and the value of the property of this corporation, which is nearly all intangible, must attach mainly to the line of railroad on which it does most of its business and makes most of its net earnings. The courts have held that the value of intangible property is taxable and that the situs of such property is where the tangible property is and where the work is done. The logical implication of this doctrine is that the valuation of an express company should be apportioned with some reference to the amount of business—to the amount of work done and to the amount of net earnings.

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[1] The figures are for 1914.

In the absence of information as to the actual value of the express business on any particular line of railroad, it may be assumed that the express business tends to correspond to the railroad business; where there is heavy railroad traffic there will be much express business, and where the railroad has little to do there will be little express business. On the assumption that the value of the various express lines owned by the Wells Fargo Company have a value proportional to that of railroads over which they operate, it appears that the procedure of "collective-unit" valuation, taken in connection with the mile-unit apportionment, has the effect of transferring more than one-fifth of the collective value from counties in which the property is found to other counties, and, in the case of certain counties, the ratio of transfer is much greater. One county loses over half of its valuation; another is given a valuation more than seven times as great as the actual value found therein. When the express business over the Nevada Central Railroad is valued at the same rate per mile as the express on the Central Pacific where the density of traffic is more than one hundred times as great, it is evident that there is a transfer of value from Humboldt County to Lander County.

Under the operation of this law, similar transfers may be made in the case of other public utilities, but the actual amount transferred varies according to the nature of the utility. For example, if there were a hydro-electric power company with highly valuable power site and plant near the eastern border of one county, with a long transmission line to the east across the next county, and with good market for power at a mine and reduction plant in a third county near its western border, the assessment procedure would give nearly all the value to the middle county across which its transmission lines run, even though the whole region along the line were an uninhabited desert.

Undoubted progress has been made in the taxation of public utilities, but much remains to be done. Under our present system of control of public utilities, taxes on such property are pretty sure to be shifted to the consumer. When a railroad company goes before the State Railroad Commission or the Interstate Commerce Commission to ask for an increase in freight rates, it presents a statement of income and expenditures to justify its claims. Since the commissions are bound to grant rates sufficient to permit of reasonable net earnings, it follows that the taxes are shifted through an increase in freight rates and that the ultimate burden falls on the consumer or the business interests of the community. In similar ways are the taxes of other public-utility corporations shifted. It will not be possible to establish a just system of taxation for such property until the final incidence or ultimate burden of the taxes is considered, and in order that such consideration may be of most practical value, there must be some change in the constitution permitting of a classification of taxable property.

The following table shows the valuations on which ad valorem taxes have been levied from 1865 to 1916, classified as follows:

1. Net proceeds of mines.
2. The Central Pacific Railroad; land-grant lands excluded after 1886 and branch lines excluded. Data available after 1883.
3. Land-grant lands owned by the Central Pacific Railroad.
4. All railroads other than the Central Pacific, and including the branch lines of that road.
5. All property assessed prior to 1884, and all property except railroads, beginning with 1884. Land-grant lands excluded after 1886.

TABLE SHOWING VALUATIONS FROM 1865 TO 1916, INCLUSIVE

Date	*Total valuations on which ad valorem taxes have been paid*	*Net proceeds of mines*	*Central Pacific Railway main line*	*Railroad grant lands*	*All other railroads*	*All other property including railroads before 1884*
1865	$21,984,948	$3,286,672	....	....	....	$18,698,275
1866	19,858,095	2,207,880	....	....	....	17,650,214
1867	26,244,626	7,041,536	....	....	....	19,203,090
1868	25,368,390	6,534,169	....	....	....	18,834,220
1869	30,439,726	4,252,897	....	....	....	26,186,828
1870	25,608,507	5,910,398	....	....	....	19,698,109
1871	28,757,081	7,856,071	....	....	....	20,901,009
1872	30,693,322	7,814,176	....	....	....	22,879,145
1873	41,075,533	14,209,048	....	....	....	26,866,505
1874	40,499,857	13,869,578	....	....	....	26,630,279
1875	46,243,735	17,003,869	....	....	....	29,239,865
1876	53,732,081	24,167,408	....	....	....	29,564,673
1877	53,655,126	24,033,532	....	....	....	29,621,594
1878	51,070,579	23,045,969	....	....	....	28,024,610
1879	36,559,821	7,268,361	....	....	....	29,291,460
1880	32,095,397	4,496,738	....	....	....	27,598,658
1881	30,909,610	2,542,371	....	....	....	28,367,238
1882	29,109,889	1,740,554	....	....	....	27,369,335
1883	39,401,580	1,643,407	....	....	....	27,758,172
1884	28,050,985	1,453,686	$6,185,889	....	$2,705,893	17,705,517
1885	27,402,625	939,336	6,161,340	....	2,748,749	17,553,200
1886	26,303,223	554,346	6,182,239	....	2,626,506	16,940,132
1887	27,907,339	1,557,132	6,301,004	$274,169	2,236,377	17,628,656
1888	28,847,671	2,109,292	6,199,242	358,192	2,566,361	17,614,583
1889	27,915,174	1,285,493	6,176,492	430,610	2,516,758	17,505,610
1890	25,350,094	686,709	6,087,904	380,105	2,428,756	15,766,619

TABLE SHOWING VALUATIONS FROM 1865 TO 1916, INCLUSIVE—*Continued*

Date	*Total valuations on which ad valorem taxes have been paid*	*Net proceeds of mines*	*Central Pacific Railway main line*	*Railroad grant lands*	*All other railroads*	*All other property including railroads before 1884*
1891	$30,570,438	$762,895	$7,574,521	$433,570	$2,672,906	$19,126,545
1892	31,318,556	222,215	8,043,508	398,756	2,690,820	19,963,258
1893	26,335,574	157,514	6,522,637	328,226	1,974,692	17,352,505
1894	23,810,015	181,294	6,294,704	328,838	1,667,263	15,337,915
1895	23,723,461	167,739	6,319,255	367,507	1,821,393	15,047,567
1896	23,458,468	352,334	6,344,192	480,999	1,728,944	14,551,999
1897	23,497,248	449,050	6,302,947	445,462	1,655,986	14,643,802
1898	23,517,245	330,034	6,269,147	456,344	1,596,954	14,864,766
1899	23,692,709	126,251	6,283,605	486,152	1,479,554	15,317,147
1900	24,286,757	105,900	6,352,094	496,330	1,465,959	15,866,473
1901	28,391,253	294,461	8,064,877	552,946	1,583,620	17,895,348
1902	29,831,376	506,710	8,065,070	567,075	1,884,951	18,817,570
1903	33,161,683	454,219	9,104,833	1,347,679	1,996,719	20,258,232
1904	37,195,769	925,634	8,819,155	2,672,666	2,286,227	22,492,087
1905	43,239,684	1,594,584	9,247,123	2,498,234	4,809,965	25,089,778
1906	46,843,009	2,378,001	9,552,360	2,729,468	5,903,174	26,279,995
1907	71,986,281	6,901,515	10,082,338	3,163,817	11,340,481	40,498,129
1908	77,010,251	3,154,109	10,460,426	3,399,695	12,263,628	47,732,393
1909	79,610,202	5,784,601	11,002,251	4,388,496	11,052,996	47,381,857
1910	87,429,206	8,874,227	15,462,650	3,911,339	13,099,299	46,081,631
1911	95,170,227	9,823,169	17,057,674	5,077,735	15,026,105	48,185,544
1912	101,087,079	8,732,859	18,882,893	4,655,895	17,866,818	50,948,614
1913	112,210,463	4,415,733	19,903,081	5,453,999	23,486,523	58,951,123
1914	136,605,048	3,681,543	21,261,597	7,105,513	26,339,024	78,217,371
1915	151,138,752	7,400,195	24,805,150	6,828,745	29,146,582	82,958,080
1916	174,471,126	14,860,569	28,348,800	7,569,395	33,332,764	90,359,598

PER CENT OF STATE TAXES ASSESSED TO EACH CLASS OF PROPERTY

Date	*Net proceeds of mines*	*Central Pacific Railroad main line*	*Land-grant lands*[2]	*Other railroads*	*Other property*[1]
1865	6.5	....	....	....	93.4
1866	4.7	....	....	....	95.2
1867	26.8	....	....	....	73.1
1868	25.7	....	....	....	74.1
1869	13.9	....	....	....	86.0
1870	23.0	....	....	....	76.9
1871	27.3	....	....	....	72.6
1872	25.4	....	....	....	74.4
1873	34.5	....	....	....	65.3
1874	34.2	....	....	....	65.6
1875	36.7	....	....	....	63.2
1876	44.9	....	....	....	55.0
1877	44.7	....	....	....	55.1
1878	45.1	....	....	....	54.8
1879	19.8	....	....	....	80.1
1880	14.0	....	....	....	85.9
1881	8.2	....	....	....	91.7
1882	5.9	....	....	....	94.0
1883	5.5	....	....	....	94.4
1884	5.1	22.0	....	9.6	63.2
1885	3.4	22.4	....	10.0	64.0
1886	2.1	23.5	....	9.9	64.4
1887	5.5	22.5	.9	7.9	63.0
1888	7.3	21.5	1.2	8.9	61.2
1889	4.6	22.1	1.5	9.0	62.7
1890	2.7	24.0	1.4	9.5	62.2
1891	2.5	24.7	1.3	8.7	62.6
1892	.7	25.6	1.2	8.5	63.8
1893	.6	24.7	1.2	7.5	65.9
1894	.7	26.4	1.3	6.9	64.4
1895	.7	26.6	1.5	7.6	67.5
1896	1.5	27.0	1.6	7.3	62.5
1897	1.9	26.8	1.9	7.0	62.3
1898	1.4	26.6	1.9	6.7	63.2
1899	.5	26.5	2.0	6.2	64.7
1900	.4	26.1	2.0	6.0	65.3
1901	1.0	28.6	1.9	5.5	63.0
1902	1.7	27.0	1.9	6.3	63.0
1903	1.3	27.4	4.0	6.0	61.1
1904	2.4	23.7	7.4	6.1	60.2

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[1] Before 1884 all assessed property is included in this column.

[2] From 1884 to 1886, inclusive, the land-grant lands are included with the railroad.

PER CENT OF STATE TAXES—*Continued*

1905	3.6	21.3	5.8	11.1	58.0
1906	5.0	20.3	5.8	12.6	56.1
1907	9.5	14.0	4.4	15.7	56.2
1908	4.1	13.4	4.4	15.9	61.9
1909	7.2	13.8	5.5	13.8	59.5
1910	10.1	17.6	4.4	14.9	52.7
1911	10.3	17.9	5.3	15.7	50.6
1912	8.6	18.6	4.6	17.6	50.4
1913	3.9	17.7	4.8	20.9	51.6
1914	2.6	15.5	5.2	19.2	57.2
1915	4.9	16.4	4.5	19.2	54.8
1916	8.5	16.2	4.3	19.1	51.7

A more detailed classification of assessed property is given for the year 1916.

Public Utilities—	*Assessed valuation for 1916*	*Per cent total valuation*
Central Pacific Railroad—Main line	$28,348,800	16.2
Central Pacific Railroad—Branch lines	6,071,316	3.4
Total Central Pacific Railroad	34,420,116	19.7
All other railroads	27,261,448	15.6
Total for all railroads	61,681,564	35.3
Other public utilities	10,141,651	5.8
Total public utilities	71,823,215	41.1
Railway land-grant land	$7,569,395	4.3
Agriculture and Stock Raising		
Land (Railroad land excluded)	$23,567,276	13.5
Live stock	14,300,000	8.2
Buildings and improvements	2,172,865	1.2
Other personal property	1,222,362	.7
Total	$41,262,503	23.6
Mines		
Net proceeds of mines	$14,860,569	8.5
Patented mining land	2,187,843	1.2
Mine improvements and mills	9,267,296	5.3
Total	$26,315,708	15.0

City and Town Property

Land	$8,308,035	4.7
Live stock	706,601	.4
Buildings and improvements	10,179,441	5.8
Banks	2,595,486	1.4
Merchandise	2,403,179	1.3
Other personal property	1,502,171	.8
Total city and town property	$25,694,913	14.7

Miscellaneous Property Not Included Above

Motor vehicles	$1,063,868	.6
Pipe lines and water rights (part)	248,630	.1
Miscellaneous personal property on which late collections were made	492,894	.2
Total	$1,805,392	1.0

Main Classes

Public utilities	$71,823,215	41.1
Railroad-grant lands	7,569,395	4.3
Agriculture and stock raising	41,262,503	23.6
Mines	26,315,708	15.0
City and town property	25,694,913	14.7
Miscellaneous	1,805,392	1.0
Total	$174,471,126	100.0

CHAPTER VI

The Inheritance Tax

Nevada made no provision for the collection of an inheritance tax until 1913.[1] The chief provisions of the act of that year are as follows: (1) The tax is imposed upon direct as well as collateral inheritances. (2) The law applies to all property in the State without reference to the residence of the owner, also to the ownership of shares of corporate stock of corporations owning property in Nevada, and to notes secured by mortgage on real estate situated in the State. (3) Provision is made for exemptions amounting to from $5,000 to $20,000 according to the degree of relationship, but strangers in blood and persons related in remote degree are not entitled to any exemption. (4) The primary rates apply to inheritances amounting to not over $25,000 in excess of the exemption, and the tax varies from one per cent to five per cent, according to the degree of relationship. (5) For inheritances in excess of $25,000, the rates are graduated into four classes and the tax is two, three, four, and five times the primary rate for the respective increments of excess—the maximum rates applying to the excess over $500,000. A remote relative who inherits more than a half million dollars is required to pay a tax of twenty-five per cent. (6) The revenue received from inheritance taxes is apportioned between the State and the county in which the property is situated, the county receiving twenty per cent and the State eighty per cent. One-half of the revenue received by the State is placed in the general fund and one-half in the permanent school fund.

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[1] Statutes of Nevada, 1913, p. 411.

Since an unusually large part of the property of Nevada is owned in large holdings, it is probable that an inheritance tax will yield greater revenues in proportion to population than in any other State. Since most of the property of Nevada, including land as well as mines and public utilities, is in corporate ownership, it is pretty certain that the inheritance of shares of corporate stock will yield most of the revenue. Since most of the corporate property of the State is owned by nonresidents, it is probable that most of the tax will be paid by nonresidents.

Since the property subject to the inheritance tax is owned by a comparatively small number of people, and since the ownership is characterized by great inequality, the revenues derived from this source will be highly variable, some years yielding amounts that will be very great in proportion to the total revenues of the State or of a county, while other years will yield little or nothing.[1] This will create a very undesirable revenue situation for several reasons. When large unexpected returns are received there is a temptation to make

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[1] The total revenue received by the State Treasurer from inheritance taxes for each year since the enactment of the law have been as follows:

1914	$193.62
1915	4,415.10
1916	3,887.22

A recent court decision (1917) awards a total revenue of $50,000 from one estate. It is quite conceivable that a single estate might pay an inheritance tax of a half million dollars, and that the taxes from several of the larger estates might be paid in one year.

unwarranted expenditures, and this is pretty sure to necessitate needless taxes at a later date. On the other hand, the receipt of unusually small revenues might make it difficult for the State to meet its necessary expenditures. In short, the inheritance tax introduces an unpredictable element into the budget. It would be possible, of course, for the State or the county in the following year to effect a reduction in ordinary taxes to an amount equal to the revenue from inheritance, but this would, at times, involve an undesirable irregularity in the tax rate.

So far as the receipts from this source are placed in the permanent school fund, this difficulty is obviated. It would be highly desirable to make some provision for the remainder of these revenues or for all above a certain maximum—so that they would not go into current expenditures where they are sure to become a disturbing element. I suggest that the irredeemable state bonds amounting to $380,000—an unfortunate legacy from territorial days—be made redeemable at the convenience of the State and that the State devote all of the inheritance revenues above a given maximum allowed for current use to the retirement of these bonds.[1] A provision could be made for the use of such revenues by counties to establish sinking funds to retire bonds as they might mature.

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[1] Since these bonds are all owned by the state school fund there would be no contractual difficulty in the way of such an arrangement.

CHAPTER VII

LICENSE AND OTHER BUSINESS TAXES

License taxes are of two general classes: (1) Licenses for revenue pure and simple; (2) Licenses for regulation with revenue incidental. The regulatory license may, and often does, yield a larger revenue than the pure revenue license, but whether the yield be much or little, is determined by regulatory not revenue considerations.

The regulatory license is merely nominal where the aim is to encourage the business while putting it under such supervision as may be essential to health, safety, or other public interest. The dairyman's milk permit is such a license. On the other hand, if a business is regarded as more or less harmful, tending toward disorder or public injury, the rate is made higher, partly with the idea of restriction, and partly to compensate the community for the special expenses of police and courts. The saloon license and some amusement licenses are of this character.

Ordinarily the business for which a regulatory license is required is conducted under certain regulations supposed to conserve the interests of the public, and some courts have held that a license cannot be considered regulatory unless there are such provisions. From the economic standpoint the tax itself may be regulatory, if the rate is sufficiently high, and if it is imposed in a manner appropriate to the purpose. For example, the sheep license imposed on nonland owners does tend to eliminate the tramp stockmen and to promote order and range conservation, even though there is no regulatory provision aside from the tax itself.

Very high flat-rate licenses do not impose a burden upon the business as a whole, since they may be positively beneficial to some competitors while destroying others. For instance, if Nevada were to impose a $1,000 license upon all saloons it would force many of the smaller proprietors to quit business, and it is probable that some of the larger saloons would, as a consequence, increase their net gains by an amount larger than the tax. Such a tax is justified only by regulatory considerations. It may be held that police supervision is easier and more effective where the number of saloons is small and the license high. Sometimes the number is arbitrarily limited, and this gives the license a very high value to the holder because of the restriction of competition. In such cases this excess value may be taken wholly or in part for public use in the form of a high license tax. Ordinarily a regulatory license is enforced in part by criminal penalties, and some courts have held that no license is to be considered regulatory unless such penalty is imposed.

COUNTY REGULATORY LICENSES

The first revenue act imposed a license tax for county purposes on billiards, bowling alleys, theaters, circuses, saloons, pawn brokers, intelligence offices, and peddlers. From time to time the list has been extended as follows: Gambling, 1869; drummers, 1877; hury-gurdy houses, 1887; prize fights, 1897; sheep, 1891; cigarettes, 1893; stationary engineers, 1905; automobiles for hire, 1909; fishing and hunting, 1909.

The following license taxes are in force at present:

Billiard tables, $5 per quarter.

Bowling alleys, $10 per quarter.

Theaters in places where over 300 votes are cast, $5 a day; $20 a month; $40 a quarter; $75 a year.

Circus, $20 an exhibition.

Other entertainers, $10 a day.

Pawn brokers, $100 a quarter.

Intelligence office, $15 a quarter.

Liquor dealers (in city or within one mile of the city), $10 a month.

Liquor dealers (more than a mile from city), $15 a quarter.

Hurdy-gurdy houses, $250 a quarter.

Glove contests (ten rounds), $100 a contest.

Sale of cigarettes, $15 a quarter.

Stationary engineer, $5, payable once.

Owner of automobiles for hire, $2.50 a month.

Peddlers, $100 a month.

Fishing and hunting—Citizens of Nevada, $1 a year; citizens of other States, $10 a year; aliens, $25 a year.

Fishing (30 days), $2.

Sheep license for residents, for each one thousand sheep, approximately, $50 a year.

Persons owning land in the proportion of one acre to three sheep are exempt.

Sheep licenses for nonresident nonland owners per head, payable in each county in which sheep are grazed, 15 cents a year.

An examination of the various laws in detail leads to the conclusion that the degree of regulation aimed at has been variable but not very prominent in relation to several of the above-mentioned classes of business. Until 1913 it was, apparently, the assumption of the law that the County Commissioners were to grant liquor licenses to all applicants, and this was the practise. The power to withhold a license was expressly granted by an act of that year. Not until 1903 had the power to revoke such licenses on complaint been granted. In fact, about the only ground for considering the saloon license regulatory during most of the history of the State is the fact that the license taxes were not graduated except in a minor degree. More recently the regulatory power so far as it relates to saloons in cities is conferred on the city council so that the county license tax on city saloons is for revenue only. A few of the license taxes such as those on hurdy-gurdy houses and sheep may be considered as restrictive by virtue of the burdens imposed. Others, such as those on hunting and sheep grazing, regulate by means of discriminatory provisions. In other cases there are specific regulatory provisions as in the case of glove contests. In several cases there is no very good ground for regarding the license tax as regulatory and not a mere revenue license, unless the need for regulation and restriction be ground for the imputation for such purpose.

There has been a considerable amount of legislation touching regulatory licenses, but it does not represent any continuous and consistent policy. Sometimes certain license taxes have been fixed at a prohibitive figure for a few years, and then the rate has been reduced, apparently to encourage the business.

GAMBLING LICENSES

Gambling is an evil which manifests itself most conspicuously along the frontier, and particularly in frontier mining regions where good wages are paid and money is plenty, where the natural hazards of business and industry attract the adventurous, and where for most men the influences of home life are wanting.

The Mississippi River, with its teeming commerce, was the wild and woolly and gambling West of the second quarter of the last century. With the discovery of gold and silver in California and Nevada, the bold and adventurous and the foot-loose and homeless were attracted to these States in large numbers, and open gambling became a prominent feature of the life of every mining camp and city.

Nevada began its career as a State by outlawing the vice, but after four years the State Controller reported that the act prohibiting gambling was "entirely inadequate and virtually of no effect whatever," and he recommended a high license tax as the best means of restriction and regulation as against Governor Blasdel's plan for making gambling a felony. The Legislature took the Controller's view of the situation, and over the Governor's veto was enacted a law to license and restrict gaming. The license rate for each game was as follows:[1]

In a county in which over 2,000 votes were cast, $400 a quarter. In any other county, $250 a quarter. Penal enforcement sections were added, and since the advertising advantages of publicity were important, the enforcement appears to have been pretty effective throughout the entire history of the act. One-half of the revenue went to the State and one-half to the county in which it was collected.

In 1871 the rates were reduced to $100 a month for counties having over 1,500 votes, and $75 for other counties, and in 1875 the rate was increased to $400 a quarter everywhere. In 1877 this rate was reduced to $250 a quarter in counties having less than 500 voters. In 1879 a flat rate for all counties was adopted—$100 per game for the first month, and $75 for each succeeding month. At this time the apportionment was also changed so that the State received only one-fourth and the county three-fourths of the revenue.

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[1] Statutes of Nevada, 1869, p. 120.

With the decay of the early mining camps, about 1880, gambling was greatly reduced, not over twenty to forty games being conducted in the whole State for twenty years. In 1907, after the recent mining revival, the apportionment was changed so that, except for slot machines, all of the revenue went to the town or city in which collected, or if outside of a town or city, to the county.

The Legislature of 1909 enacted a law prohibiting gambling with the exception of two minor forms, the law taking effect October 1, 1910. The violation of the provisions of this act was made a felony, and thus the recommendation of Nevada's first Governor was given effect. Since that date very little revenue has been received from this source.

PRIZE-FIGHT LICENSES

An act of 1897 provides for the licensing of prize fights, the license to be issued by the Sheriff for $1,000, and the revenue to be divided, one-tenth going to the county and nine-tenths to the State. The license was of little importance from a revenue standpoint. In 1913 the act was amended limiting the fight to ten rounds, and reducing the license to $100.

LICENSES FOR HORSE-RACING

In 1915 the Legislature enacted a law providing for a State Racing Commission to license and regulate horse-racing.[1] The State receives a commission amounting to one and a third per cent of the money bet on the races under the "paris mutuel" system, and under an amendment of 1917 all money received from this source is devoted to the improvement and maintenance of state highways.

SHEEP LICENSE TAX

In the earlier period of the development of the sheep industry there was comparatively little land in private ownership. The sheep were ranged in great bands over public lands free of rent and without regulation. The business had its hazards of snow and cold and drought and disease, but was, on the whole, very profitable, and the competition for range privileges was keen. How the sheepmen fought with each other and with the cattlemen for access to the pastures is a matter of history. In the course of time certain far-sighted men began to purchase the land which had water, and, in this way, to control the use of adjacent ranges of vastly greater area. Two classes of sheepmen came into existence, the landed and the landless, the latter being known as tramp stockmen.

The situation was further complicated by the fact that residents of neighboring States would drive their sheep across the line into Nevada and compete for the use of ranges already overstocked. This contributed to the risk of stock raising and increased the bitterness of the feud between rival stockmen. Moreover, it tended to destroy the value of the range, for plant life is destroyed by too close grazing.

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[1] Statutes of Nevada, 1915, p. 23.

The landed stockmen gradually divided among themselves the pasturage privileges of the ranges controlled by their water rights, and they utilized the land according to a pretty well-defined plan, driving the sheep to one region for the winter, to another in the spring, and so on through the year so as to make the best use of the land, and so that they were more sure of a supply of feed at every season. But the control of the range through the ownership of the water was far from perfect, and the nonresident and the tramp stockmen continued to run their flocks on the preserves of their landed rivals in a most exasperating way. The permanent interest of the industry lay with the landed men, for they did, in some small measure, conserve the range, whereas the tramp stockman, having no permanent interest in it, was more inclined to ruin a range for the sake of a temporary advantage. Moreover, the landed men were paying tax, not only on their sheep, but on their land, while the landless men, moving their herds across county lines and state lines and owning no land anywhere, were sometimes able to escape taxes altogether and, at most, they paid on the stock only.

The sheep license tax was in part an effort to secure greater revenue from nonresident and tramp stockmen, but also it was intended to drive them out of business. In this latter purpose the tax, taken in connection with other things, has had some measure of success, so that there are at present fewer tramp stockmen in the State, and sheep growing has become more nearly a peaceful pursuit.

The provisions of the act are as follows:[1] Owners of herds of sheep are required to obtain a license for which they pay an amount so graduated that it is equal to about five cents a year for each sheep. But all resident sheep owners who own land at the rate of one acre to three sheep are exempt from the provisions of the act. There is no requirement that the land so owned shall be used in pasturing the sheep nor that it shall be in the same county in which sheep are grazed. A man might devote his owned land to cattle growing or to any other purpose, or to nothing at all, and secure the full benefit in the way of exemption. The failure to procure the license in advance is a criminal offense, punishable by fine or imprisonment.[2]

In 1915 there was added a further section providing for a license rate of fifteen cents a head for sheep owned by landless[3] nonresidents, such license rate to be paid in each county in which the sheep are pastured, and such rates to be doubled if the owner reports the number of sheep below the actual number.[4]

The Sheriff, who is license collector, receives a commission of two dollars a license and twenty per cent of all taxes collected, and, since the rigorous enforcement of the law is likely to meet with the approval of the local people of influence, it is probable that the commission tends to secure efficient enforcement, especially in the case of the nonresident owner.

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[1] The act was passed in 1891 and amended in 1895, 1901, and 1915.

[2] In 1896 the Supreme Court held, in the case of *State* v. *Wheeler* (23 Nev. 144), that a lessee of land for a fixed term was an owner within the meaning of this act. The amendment of 1901 excluded this interpretation.

[3] Apparently any nonresident sheepman could evade this special fifteen-cent rate by buying any small piece of land, no matter how little or valueless it might be.

[4] Statutes of Nevada, 1915, pp. 240 and 353.

There might be a constitutional question as to the exemption of land owners. The owner of valuable city property would not be exempt, even though he might be a permanent resident and a heavy taxpayer. The owner of ten thousand acres of the poorest land would be exempt even if the land were worthless, or used for some purpose other than grazing. The law does not provide for any regulation except such as may result incidentally from the imposition of the license tax. It may be held, however, that the tendency of the law to concentrate sheep ownership in the hands of resident owners and of land owners will conserve a public interest.

County Revenue License Taxes

The Northern States make comparatively little use of the pure revenue license, ordinary forms of business being exempt, but considerable income is derived from saloons and from an increasingly large number of business activities which require inspection and regulation. In the Southern States greater use has been made of the purely revenue business license. The Intermountain and Pacific West, under the leadership of California, gave the business license an important place in its revenue system, particularly in its early history. This arrangement may be regarded as an adjustment to pioneer mining conditions. Thriving mining camps often grew up in the course of a few months, and when this happened in a region previously without population it became necessary to create certain local governmental agencies, and the demand for local revenues was immediate, while the ordinary property tax might not yield any revenue for a year or more. Moreover, in the early stage of the development of a mining camp the hazard of the mining risk is very great, and it attaches, not only to the mine, but to all other property in the camp. The lively camp of today may be almost or quite deserted next year, and in this case all real estate values vanish and personal property is removed. Under these conditions the general business license for local revenues is desirable in that it provides an immediate revenue and is about as well apportioned as any tax could be under the circumstances.

REVENUE LICENSE TAXES FOR COUNTY PURPOSES

The first Territorial Legislature of Nevada enacted a revenue law embracing a system of license taxes for county purposes, the act being in large measure copied from the revenue laws of California.[1] The rate on banking and on the business of brokers, merchants, and keepers of hotels, lodging-houses, and saloons was graduated according to the amount of business, while a uniform rate was established for insurance companies and on the business of transporting gold dust or gold and silver bullion. The provisions of the law were not wholly consistent with the distinction between the revenue and regulatory licenses. The revenue purpose predominated, but the distinction was recognized and the first and second State Legislatures modified the law in the direction of greater consistency. In 1865 saloon and hotel licenses ceased to be graduated, and were put on a flat-rate basis, probably for administrative, rather than regulatory, reasons, but in 1866 the graduation was restored for hotels.[1] Administrative features were improved, but left far from perfect. In the following years a few changes of minor importance were made. The classifications for purposes of the graduated rates were extended in the case of banks and brokers. Other minor changes occurring from time to time have been mainly of an administrative character.

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[1] The license law of California enacted in 1850 was amended frequently up to 1861, the general aims of the amendments being along the line of greater efficiency in administration, and better graduations. The bill for the act of 1861 (Statutes of California, 1861, p. 441–447) became the basis of the first territorial license law of Nevada. In 1879 the constitution of California was revised so that the Legislature was deprived of power to impose taxes for county or city purposes. After that date the question of local licenses for county and city purposes was determined by the local county and city authorities acting under general permissive laws. In 1901 the general business or revenue license was abolished, but regulatory licenses may be imposed in incorporated cities by the city government only and, outside of cities, by the county authorities.

The rates imposed by the law as it stood before 1915 were as follows, and for the most part these rates had been in force during almost, if not quite, the entire period of statehood:

FOR BANKS AND PRIVATE BANKERS

Amount of business per month	*License per quarter*
Class 1—$500,000 or more	$600
Class 2—$300,000 to $500,000	450
Class 3—$200,000 to $300,000	300
Class 4—$100,000 to $200,000	225
Class 5—$50,000 to $100,000	150
Class 6—$25,000 to $50,000	75
Class 7—Less than $25,000	36

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[1] Statutes of Nevada, 1864-5, p. 297; Statutes of Nevada, 1866, p. 173.

BROKERS AND SAVINGS BANKS

Amount of business per month	*License per quarter*
Class 1—$250,000 or more	$100
Class 2—$200,000 to $250,000	80
Class 3—$100,000 to $200,000	50
Class 4—$50,000 to $100,000	30
Class 5—Less than $50,000	20

MERCHANTS

Estimated average monthly sales	*License per quarter*
Class 1—$100,000 or more	$150.00
Class 2—$75,000 to $100,000	112.50
Class 3—$50,000 to $75,000	75.00
Class 4—$40,000 to $50,000	60.00
Class 5—$30,000 to $40,000	45.00
Class 6—$20,000 to $30,000	30.00
Class 7—$10,000 to $20,000	22.50
Class 8—$5,000 to $10,000	15.00
Class 9—$1,000 to $5,000	11.25
Class 10—Less than $1,000	7.50

HOTELS AND LODGING-HOUSES

Amount of business per month	*License per quarter*
Class 1—$3,000 or more	$45.00
Class 2—$1,000 to $3,000	14.00
Class 3—$30 to $1,000	7.50

In addition to the fact that the provisions of the license laws relating to bankers and brokers were contrary to national laws so far as they related to national banks, they were seriously defective in several ways:

1. The terms "bankers" and "brokers" were defined in almost identical terms so that it was impossible to distinguish between them, although there were two different rates of license based on two different classifications. "Bankers" includes "persons or associations engaged in loaning money at interest," or in "buying or selling notes, bonds, or other evidences of indebtedness," or engaged in "buying or selling gold dust and silver bullion,

gold or silver coin, or engaged as keepers of savings banks." "Brokers" includes all of those classes of persons and associations by specific mention.[1] By definition every broker was a banker and every banker was a broker.

2. The tax on banks was graduated according to the amount of business done, the rate for banks varying from $36 to $600 a quarter, but the method of measuring the business was not prescribed. What was to be counted in determining the business of a bank—its new deposits, its total deposits account, its new loans, its loans outstanding, its collections, its purchases and sales of securities, drafts and money orders sold, etc., or all of these? The logic of the language would clearly imply that every transaction carried on by a bank, with the exception of the receiving of deposits in the form of paper money and of checks drawn within the State, should be counted. Moreover, some support for this interpretation is found in the rates and classifications. There were but five classes in the original act, and unless some such method of measurement were used, all of the banks would come in the lowest class, thus abolishing the classification altogether. The more recent list of seven classes permitted every bank in the State, using some method of measuring business, to be classified in one of the two lower classes.

On the other hand, there is some evidence in the history of bank licenses in California which tends to show that the amount of business was intended to be measured merely by the exchange sold. The California law of 1861, the bill for which appears to have served as a basis for the law enacted by the first Territorial Legislature of Nevada, contains an exactly similar ambiguity in almost identical language.[2] But the previous law of California had graduated the tax in proportion to the amount of bills of exchange drawn,[3] and it is probable that the term

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[1] Revised Laws of Nevada, 1912, p. 1091.
[2] Statutes of California, 1861, p. 443.
[3] Wood's Digest of California Laws, 1858, p. 628.

"amount of business" of the act of 1861 had been used by the careless man who drafted the bill to mean the same thing. Of course such an interpretation is entirely inconsistent with the language of the act, but it frequently happens that legislators fail to express their purpose accurately.[1]

What has been said relative to the measurement of a bank's business applies, in the main, to brokers, except that the history of California legislation throws no light on the question. In general, the rates were much lower relative to the amount of business, and this may be taken to indicate that the business of a broker was intended to be measured by a more inclusive method.

A serious defect of the law in the case of both brokers and bankers, is that, through the very low classification taken, even by the largest banks, there was a discrimination against the small bank. A bank with a capital of $10,000 and with a business proportionately small, paid about one-half as much license tax as a bank with capital and business fifty times as large.

The provisions of the law relating to merchants' licenses were more carefully drawn. The definitions were adequate, and the measurement of business by sales is clear, and the rates were graduated pretty fairly, except that they discriminate somewhat against the smaller merchants. This discrimination was more serious in the actual administration of the law, since it had been an almost universal custom to permit the underclassification of large business enterprises so that a little store with a stock worth a thousand dollars has paid more than half as high a license as a store with a stock worth more than a hundred thousand dollars. In fact, the merchants' licenses, as well as all of the other graduated licenses, have become, through custom, almost flat-rate licenses, and these always work to the disadvantage of the small enterprise. Moreover, it would be impossible to enforce the provisions of our law fairly without conferring great inquisitory power upon our administrative officers, and public sentiment in America does not favor the exercise of such power except in the case of quasi-public corporations, or where some highly important and obvious public interest requires it.

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[1] This custom of copying laws from the statute books of California in an uncritical way is to be condemned. In many cases the legislation of that State has been bungled, and Nevada has copied the imperfections along with the rest, and it is not to the credit of the State that it has retained these defects long after they have been discovered and removed by the State from which they were copied. In other cases good laws of other States have been placed upon the statute books without sufficient study to determine whether they were applicable to the political organization or to the economic conditions of Nevada.

The classification and graduation of hotel licenses was obviously defective in the law itself, and what is said relative to the administration of merchants' licenses applies to hotels. In practise a hotel whose receipts were over eight thousand dollars a month was required to pay the same rate as that imposed upon a lodging-house of four or five rooms, with receipts amounting to thirty dollars a month.

The action of the Legislature of 1915 in abolishing these license taxes was eminently wise.[1] The State had long passed the pioneer conditions which justified them in the beginning. The provisions of the law were not well devised, either from the standpoint of equality and justice, or from that of administration. The administration of the law was expensive and inefficient, and it could not have been made efficient without the use of inquisitorial power, which, under the circumstances, would not be justifiable. Moreover, such taxes may be shifted to the consumer in the form of higher prices. Indirectly this works to the disadvantage of the local business community because the advance in prices due to the tax—if it is large enough to amount to anything—tends to drive business away. Witness the large mail-order business with firms in other States. It is good public policy to remove all handicaps on business enterprises. Give the home merchants an even chance to meet outside competition, and the community will receive a more than proportionate benefit in the form of lower prices and better service.

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[1] Statutes of Nevada, 1915, p. 247-8.

REVENUE LICENSE TAXES FOR CITY AND VILLAGE PURPOSES

The cities and villages of Nevada are of two classes, incorporated and unincorporated. The incorporated cities are governed by their own officers in accordance with the provisions of the general charter act or of special charters.[1] The unincorporated cities and villages are governed by the Boards of County Commissioners, which bodies have power to levy municipal taxes and to collect license taxes for municipal purposes in addition to county taxes.[2]

In the general charter act, in all the special city charters, and in the act providing for the government of unincorporated towns and cities, wide licensing powers are conferred. The general act for the incorporation of cities and towns contains more than a page devoted to the specific mention of occupations subject to a license tax, and there is a blanket clause including "all character of lawful trades, callings, industries, occupations, professions, and business conducted in whole or in part within the city." The special city charters, and likewise the act for the government of unincorporated places, all have similar provisions. The city councils of incorporated places are left free to graduate such licenses as they may choose, and to make the rates uniform in other cases, and thus to distinguish between revenue and regulatory licenses, but in the unincorporated towns and cities all rates must be fixed with "due regard to the amount of business done by each firm, company, or person so licensed." In these planes all licenses seem to be regarded primarily as revenue licenses, although the power to regulate is conferred.

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[1] Statutes of Nevada, 1907, p. 241, and 1905, p. 99.

[2] Statutes of Nevada, 1881 p. 68.

Under the provisions of these various laws the local municipal governing bodies have imposed rates sufficiently high to yield an important part in the city revenues. As a rule the classifications and graduations are better devised than those of the county licenses; the tax is applied to about every line of business, and the administration is better than in the case of the county licenses.[1]

Apparently revenue licenses are better administered when the rates and administration are under the control of the local officials and when the revenues belong to the immediate local community. Most of the arguments against the county revenue license apply to the city revenue license, and it would be good public policy to abolish all license taxes which do not aim at regulation or restriction.

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[1] For example, in 1912, a certain business was subject to forty-five dollars city license in Reno, and to the same amount of county license under state law. The city collected $45 and the county only $7.50.

STATE BUSINESS TAXES

In addition to county and city licenses, Nevada has made considerable use of various license and other business taxes for state purposes during its entire history. The first Legislature provided for a stamp tax,[1] a franchise tax on toll roads,[2] a tax on the transportation of passengers from the State,[3] and a tax on insurance,[4] for the benefit of the state treasury.

THE STAMP TAX

The stamp tax applied pretty generally to all orders, drafts, promissory notes, deeds, contracts, wills, and other legal instruments, and among the administrative provisions were a penal clause and a clause making all unstamped documents void. This latter provision resulted in a considerable use of stamps, but in 1868 the Controller estimated that the revenue could be increased by about one-third if he were given better means of enforcement. Apparently the law was so largely violated by 1871 that the violators were able to influence the Legislature to amend the law in such a way as to make its violation safer. Provision was made at this time whereby a document lacking the stamp could be made valid at law by affixing the stamp at any later date.

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[1] Statutes of Nevada, 1864-5, p. 315.

[2] Statutes of Nevada, 1864-5, p. 255.

[3] Statutes of Nevada, 1864-5, p. 304.

[4] Statutes of Nevada, 1864-5, p. 105-7.

The amendment could have properly been entitled "An act to make the evasion of the law easy and safe." The decrease of revenues in the succeeding years indicates that the amendment was effective. In 1873 the law was repealed.

TAX ON TOLL ROADS

The franchise tax on toll roads amounting to two per cent of the gross proceeds was collected until 1900, but in constantly diminishing amounts, due to the substitution of public highways for toll roads. The amount collected for 1865 was $4,124.87, and for 1900, $20.05.

THE PASSENGER TAX

The passenger tax amounting to one dollar for each passenger carried from the State by any stage coach or any transportation agency was collected from the carrier. Apparently the administrative provisions were, at first, weak. Less than three hundred dollars was collected the first year, but after certain amendments were enacted in 1866, the returns amounted to about seven thousand dollars a year. The law was upheld in 1865 by the Nevada Supreme Court,[1] but on appeal it was, in 1867, declared void by the United States Supreme Court on the ground that it trespassed on the power of the Federal Government to regulate interstate commerce.[2]

INSURANCE LICENSE TAXES

The insurance tax of 1865 embraced three separate payments as follows: (1) A fee of five dollars to the State Controller for a certificate for each company: (2)

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[1] 1 Nev. 294.

[2] 6 Wall. 35.

a license tax of $25 a quarter for each agent; (3) a tax of two per cent on the premiums collected in the case of fire insurance, and of one per cent for life insurance companies. The revenue collected for the first three years was insignificant, but without further legislation the collections increased notably in 1868–9, due probably to the greater activity of the administrative officers.

The provisions of the insurance act have been amended frequently, but the only important changes in the revenue provisions were made in 1881, when accident and casualty insurance companies were included within its provisions, and when a flat rate of $100 a year for each company was substituted for the graduated rate of two per cent, or one per cent of the premiums, and the quarterly rates for agent's licenses was reduced to fifteen dollars. Under this revised law the State has received in recent years about ten or eleven thousand dollars annually. The desirability of such a tax may be questioned, since insurance should be encouraged. A small fee to cover cost of supervision would be appropriate.

THE DRUMMER LICENSE

In 1883 a law was enacted providing for the taxation of drummers by means of licenses, the rates of which varied from $100 to $200 per annum for drummers not having a place of business within the State, and with rates about one-half as high for those who represented Nevada firms. The revenue from this source amounted to ten or twelve thousand dollars a year for a few years, but in 1887 the law was declared unconstitutional,[1] since it constituted a discrimination against interstate commerce.

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[1] 19 Nev. 439.

CORPORATION TAXES

In 1903 the Legislature enacted a general incorporation act and provided for certain taxes paid in the form of fees,[1] some graduated and some uniform, to the Secretary of State. The fees apply to corporations organized under the laws of Nevada and, in part, to foreign corporations doing business in this State.[2] In 1905 the rates were reduced somewhat, but on account of the great increase of corporate activity the revenues increased rapidly.[3] In 1907 the fees were applied fully to foreign corporations, with a resultant further increase in the revenues.[4] Since 1908 the receipts from this source have diminished very greatly, due to the decrease of mining promotion and speculation, and to the effect of the tax in discouraging high capitalization.[5]

STATE LIQUOR LICENSE

The state liquor license enacted in 1905 provided for an annual state license at the rate of $50 for retailers,

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[1] Fees, properly so called, are payments for special services rendered to individuals or corporations, and the charge does not exceed the cost of rendering the service. Where a so-called fee is greatly in excess of the cost of the service such excess is not a fee, but a tax.

[2] Statutes of Nevada, 1903, p. 158.

[3] Statutes of Nevada, 1905, p. 76.

[4] Statutes of Nevada, 1907, p. 190.

[5] Previous to 1903 the Secretary of State collected certain fees which for the year 1902 amounted to $2,346.49. The increase in fees after 1902 is due chiefly to the corporation tax, although the older fees probably increased to the extent of five or six thousand dollars a year. The total collections of the office of Secretary of State for the fourteen years, beginning with 1902, were as follows:

1902— $2,346.49
1903—$14,408.65
1904—$14,748.50
1905—$28,478.60
1906—$64,975.90
1907—$92,784.20
1908—106,826.10
1909—$44,038.55
1910—$39,825.45
1911—$35,937.75
1912—$29,908.65
1913—$29,946.95
1914—$17,775.65
1915—$27,846.00

$100 for wholesale dealers, and $12 for druggists.[1] An amendment in 1913 increased the rates to $100 for retailers, $150 for wholesale dealers, and $25 for druggists.[2] The income from this source has been large, amounting to an average of over fifty thousand dollars a year for the seven years before the adoption of the amendment of 1913. The income for 1916 was $80,293.

BUILDING AND LOAN ASSOCIATION LICENSE

By an act of 1905 foreign building and loan associations are required to pay a state license tax of $100 a year. This tax produces but little revenue.

STATE BANK LICENSE

A special state license is collected from all banks except national banks, the rate being graduated from $100 for banks capitalized at $25,000 or less to $275 for banks with $300,000 or more capital stock. The license provision is part of an act providing for the examination of banks, and it was intended, doubtless, that the special revenue would be approximately equal to the cost of administering the act, but, on account of the marked decrease in the number of state banks in 1907–8, the income has not met this requirement.

THE STATE LICENSE ON AUTOMOBILES

A state license tax was imposed on automobiles in 1913 and the act was amended in certain details in 1915 and 1917. The rates are graduated according to horse-power into three classes, and the revenue from this source is devoted to construction and maintenance of roads.

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[1] Statutes of Nevada, 1905, p. 228.

[2] Statutes of Nevada, 1913, p. 423.

In addition to the revenues derived from the above-mentioned sources, the State secures a share of the income produced by certain county regulatory licenses as follows: (1) Nine-tenths of glove-contest licenses; (2) one-fourth of amusement-hall licenses; (3) one-half of gaming licenses. But since 1910 all of these have been negligible from a revenue standpoint.

It is a striking fact that all of the early state license and other excise taxes, with the exception of that on insurance, have been abandoned, two for reasons of unconstitutionality, and the others as a matter of policy. The present business taxes are, with the exception of that on insurance, of recent date.[1] The State in 1916 derived from all of these sources, but chiefly from the corporation tax and from liquor licenses, about one hundred and thirty thousand dollars, or thirteen per cent of all revenue from taxation.

On the whole, the state excise taxes are much more nearly free from objectionable features than were those of the county, and they are more easily and efficiently collected.

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[1] The old state excise list included the insurance tax, the passenger tax, the toll-road tax, the tax on gambling, and the drummer tax. The new list embraces insurance, liquor selling, glove contests, the grazing of sheep, and banking.

CHAPTER VIII

Public Expenditures

The subject of taxation cannot be considered wholly apart from that of public expenditures. Like all other States, Nevada has witnessed a marked increase in expenditures in recent years, and it is clear that as the total revenues from taxation become larger, the justice of their apportionment is a question of growing importance. Moreover, the per capita public expenditures of Nevada are higher than in any other Commonwealth, and this contributes to the importance of all the questions relating to taxation.

Public expenditures are directly related to the enlargement of governmental functions. The greater the number of things the people wish to have done by governmental agencies, and the higher the standards of efficiency in governmental service, the greater the cost. During the period of the early mining development, 1860–1880, the governmental functions were limited to those most essential to the existence of the State. There was no university, no hospital for the insane, no provision for the care of juvenile delinquents, little or no public expenditure for health, and most highways were maintained as toll-roads by private individuals. There was no public oversight of mining or other industry in the interest of safety. Previous to 1880 the state expenses amounted to three or four hundred thousand dollars a year.

During the next period of approximately two decades, the revenues of the State suffered a diminution due to decline of the mining industry, and the general tendency was to reduce public expenditures to a minimum. Salaries of officers were reduced, and certain offices were abolished. The State was able to reduce the cost of maintenance for the prison and the expenditures for the care of the insane, and of other unfortunates because, with the decline of mining, large numbers of people left the State, and, among those who left, were many of the homeless migratory men who furnish so large a proportion of the inmates of penal and charitable institutions. To a very limited extent this period witnessed an advance in governmental activities. The State University was established at Reno in 1886, but this involved small demand upon the state revenues, since the support came chiefly from the National Government. The State began to care for its insane in 1882, whereas previously it had paid for their care in a private institution in California. A new Orphans' Home was built. But, all in all, the state expenditures for this period was not increased, and there was no important advance in governmental function calling for increased taxation except that some of the early toll-roads were taken over by the public and maintained at county expense.

Beginning with the early years of the last decade, the State experienced a marked economic development. Population increased rapidly, new railroads were built, and values of land and other classes of property increased so that it was possible for the State to increase its revenues without resort to oppressive taxes. The long-delayed progress in the development of governmental function was now possible, and the recent period, 1902-

1917, has witnessed a steady movement in this direction. New offices, including a Bank Examiner, a State Engineer, an Inspector of Mines, and a State Auditor, were created. A State Police has been provided for. Several commissions have come into existence, and the work of offices formerly in existence has been increased in a marked degree. The University is now supported with much greater liberality. The following table shows the growth of new forms of public service as indicated by the date of the creation of new offices and commissions:

1901—State Board of Irrigation.
1903—State Engineer.
1905—State License and Bullion Tax Inspector.
1907—Sheep Commission.
1907—Bank Examiner.
1907—Railroad Commission.
1907—System of School Supervision.
1908—State Police.
1909—State Hygienic Laboratory.
1909—Pure Food Inspection.
1911—Public Service Commission.
1913—Tax Commission.
1915—Livestock Commission.
1915—Industrial Insurance Commission.
1917—State Auditor.
1917—State Assayer and Inspector.
1917—Department of Highways.

The following table shows the increase of state expenditures from 1902 to 1916. The classifications used by the State Controller for 1916 are used, and the expenditures of 1902 are, so far as possible and with slight exceptions classed under the same heads. It will be noticed that many new sorts of service have appeared since 1902, and that there are important increases of expenditure for most of the old offices:

	1902	1916	Per cent increase
Education—			
Public Schools	$131,685	$264,383	100
University	35,207	163,607	364
Virginia City School of Mines		2,798	
Tonopah School of Mines		3,015	
Historical Society		3,368	
Teachers' pensions		2,688	
Total	$166,892	$439,862	160
Charitable and Penal Institutions, etc.—			
Orphans' Home	$17,344	$15,956	*8
Hospital for Insane	41,506	57,407	38
Prison	29,534	73,509	148
Crittenton Home		2,400	
School of Industry		11,362	
Prison Farm		6,645	
Care of blind and deaf	2,749		
Total	$91,133	$167,282	83
Commissions and Boards—			
Fish Commission		$4,196	
Industrial Commission		2,779	
Public Service Commission		5,064	
Railroad Commission		18,893	
Tax Commission		12,778	
Commission on Uniform Laws		106	
Board of Health	$215	2,556	
Total	$215	$46,376	
Departments—			
Bank Examiner		$6,283	
State Engineer (Water Measures)	$2,094	26,466	
Inspector of Mines		3,952	
Printing Office	4,289	22,127	
State Library	3,052	4,825	
State Police		8,492	
Total	$9,435	$72,148	

*Decrease.

Agricultural Farms and Fairs—	*1902*	*1916*	*Per cent increase*
Clark County Experiment Farm		$5,766	......
Agricultural Society		5,318	......
District Fair	$105	......	......
Total	$105	$11,084	......
Salaries—			
Judicial elective officers	$13,312	$21,000	57
Assistants to judicial officers	1,100	4,800	336
Other elective officers	21,400	40,720	90
Assistants to other elective officers	8,150	32,153	294
Total	$43,962	$98,673	124
Sundry Departmental Expenses—			
Maintenance Governor's Mansion		$984	......
Governor's traveling expenses		542	......
Governor's Conference		150	......
Adjutant-General's expense		1,998	......
Insurance Commision expense		139	......
Surveyor-General clerk hire	$1,033	2,166	......
Supreme Court Bailiff		820	......
Total	$1,033	$6,790	......
Sundry Expenses Common to All Departments—			
Telephone, telegraph, postage		$3,455	......
Freight, express, drayage		1,259	......
Exchange		950	......
Miscellaneous expenses		950	......
Current expenses	$1,283	......	......
Office supplies, etc.		1,473	......
Fuel, light, laundry		2,391	......
Stationery, fuel, light	1,496	......	......
Fire insurance	426	94	......
Industrial insurance		1,985	......
Advertising	650	2,825	......
Repairs	601	1,824	......
Reservoir, water, etc.	627	1,043	......
Automobile road		1,210	......
Gardeners, janitors, etc.	3,000	8,104	......
Elections	389	532	......
Auditing accounts		3,659	......
Total	$8,[illegible]62	$31,886	276
Interest on bonds	$20,012	$51,000	......

	1902	1916	Per cent increase
Miscellaneous—			
District Judges' traveling expenses	$1,321	$5,613	......
Relief of Bowen		120	......
Silver service for battleship		4,996	......
Other miscellaneous	2,306		......
Total	$3,627	$10,729	......
Extraordinary Expenses—			
Panama-Pacific Exposition		$4,688	......
Panama-California Exposition		735	......
Automobile Road Fund		17,713	......
Total		$23,117	......
Total Expenses State Government[1]	$353,878	$960,947	......

The growth of population in this period of fourteen years—Indians not counted—was approximately one hundred per cent. The per capita expenditures increased by about thirty-five per cent, a lower rate of increase than in most States.[2] During this same period there has been a pretty steady increase of commodity prices and wages due to the depreciation in the value of gold, and this increase in general commodity prices, not counting the abnormally rapid increase in 1916–17 due to the war and crop conditions, was almost exactly at the same rate as the increase in per capita cost of the State Government. In other words the per capita real cost of the State Government was the same in 1916 as it was in 1902, the increase in the number of dollars being offset by the decrease in the value of the dollar.

Because of the sparseness of population in Nevada the per capita cost of government is unusually high—higher than in any other State. A population always less than a hundred thousand and at times less than forty thousand, excluding Indians, has supported all the machinery of state and local government. The per capita cost of government for Nevada as given in the Census Report on Wealth, Debt, and Taxation for 1913 was, for the State, $10.45, and for all counties, $17.18. The per capita cost for all States was, for state governments, $3.95, and for counties, $4.49. This represents a total per capita cost of state and county government in Nevada of $27.63, as compared with $8.44 for the country as a whole. This comparison is not quite just, since there are certain functions performed by the State or by the county in Nevada that are performed by smaller political divisions in many other States. For example, nearly all school expenditures in Nevada are made by the State or by counties, while similar expenditures in many other States are met by local school district or township taxes, and such expenditures are not included in the Report on Wealth, Debt, and Taxation. The same is true in relation to expenditures for road maintenance and in a minor degree for expenditures for charitable purposes and for the maintenance of minor judicial offices. But after making a reasonable allowance for these differences it appears that the per capita cost of government in Nevada is about two and a half times as large as the average cost for all States. This is adequately explained by the sparseness of population together with the high scale of price and wages which prevail generally in Nevada.

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[1] The writer has not made a study of county expenditures generally in Nevada, but there are reasons for believing that county and other local expenditures have increased fully as rapidly as have those of the State.

[2] During the ten-year period 1903–13 the total per capita governmental cost payments of all state governments increased by 71 per cent, while those of Nevada increased only by 61 per cent. See Census Report on Wealth, Debt, and Taxation for 1913.

This high per capita cost of government would constitute a serious burden were it not for the fact that incomes are high also, and that the per capita wealth of the State is extremely large, being a little more than two and a half times as large as the per capita wealth for the whole United States.[1] It is evident, therefore, that the tax rate necessary to produce a sufficient revenue for state and county purposes in Nevada would be approximately the same as the average rate required in the rest of the country if the rate were imposed on all property. The exemption of one very important class of property—mines—in Nevada necessitates a higher tax rate than is usual, but, considering the general scale of incomes it is probable that this is not more burdensome to the Nevada taxpayers than are lower rates to the people of other States.

The present tendency is in the direction of larger governmental expenditures. There is an increasing demand for better roads which is pretty sure to result in largely increased expenditures. As population increases, the cost of education per child attending school may decrease a little, but, since the income derived from the loan of the permanent school fund will not increase much, that part of the cost which is paid out of revenues from taxation will have to increase at a more rapid rate than does school population. The growth of a larger stable population with a corresponding decrease in the number of homeless migratory workers, would reduce the necessary expenditures for charities and corrections.

Just how large a share of the social income should be expended by governmental agencies[1] and what share should be left for private expenditures or saving cannot be determined from mere abstract general considerations. There is some tendency on the part of large taxpayers to accept the view that too much money is expended by public agencies, while the people who pay little or no tax directly are inclined to look with favor on larger expenditures, the benefits of which are shared by all. To a man who owns an automobile and other property valued at less than two thousand dollars, the proposition to tax the county a hundred thousand dollars for road building is pretty sure to be attractive, for he will receive considerable benefit at small personal cost. To the millionaire who may have to pay ten or fifteen per cent of the tax, the proposition is pretty sure to be less attractive unless the expenditure will be of special benefit to his property. In this diversity of interest as between the owners of great wealth and the owners of little or none, there lies a possibility of more serious political and social problems than have appeared as yet.

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[1] See Statistics of Wealth, on p. 2.

If the increase of public expenditures and of governmental function are considered as tendencies toward socialism—using that term in a rather general sense—it is evident that the American people are tending toward socialism. In addition to the causes of this movement as they are found in most American States, there is a special situation in Nevada which may accelerate the movement to an unusual degree. In general, the people who pay direct taxes of more than a merely nominal amount are the conservatives in relation to the increase of public expenditures. Where the property is in the ownership of large numbers of middle-class owners, the general community sentiment is conservative, and the property owners may be able to control politically because of numerical superiority. Where the ownership is mainly in the hands of a few, and where the great majority of the people pay no direct taxes, or taxes of only a nominal amount, we may find the control of public expenditures resting in the hands of the majority of voters—of voters who might be able to impose higher taxes on the community without directly paying more than a negligible part of it themselves.

There are three main classes of property in Nevada: (1) The public utilities, constituting about 41 per cent of all assessed property, and almost wholly owned by people whose homes are not in Nevada; (2) the mines, which pay on equipment and proceeds about 15 per cent of the taxes and which are owned chiefly by nonresidents; (3) land and live stock, which constitute about 24 per cent of all assessed property and which are mainly in the ownership of corporations, a considerable number of which are owned and controlled by nonresidents. Probably the owners of two-thirds of all of the taxable property of Nevada are not citizens of this State.

Furthermore, the number of middle-class owners is comparatively small. The conservative influence of the farmer voters is small, because they do not cast over ten per cent of the votes—probably not over seven per cent. I would estimate that the number of voters who pay sufficient direct taxes to cause them to take the conservative side of a question relating to public expenditures does not exceed twenty per cent of all voters, although the percentage has been increased a little as a result of equal suffrage. Consonant with this is the fact that a campaign for official position on a platform of retrenchment and economy is not considered good politics. The practical situation of most voters tends to make them indifferent to the question of economy and antagonistic to retrenchment.

Here is a lack of political and social equilibrium. It may be possible for the few to maintain practical control in sufficient measure to prevent any radical change in our social system, but such control by a few is not in accordance with the American ideals of democracy. A marked increase in the number of farmers and of other middle-class property owners would constitute the best assurance of reasonable stability in the social order.

CHAPTER IX

PUBLIC INDEBTEDNESS

The men who sat in the Nevada constitutional convention were not under any illusion as to the financial difficulties in the way of the State about to be created. There was danger that there would be an excessive public debt. The Territory, in the short period of its existence, had incurred a large indebtedness for current expenses, and the expenditures of the State Government were sure to be much larger. Care was taken, therefore, to introduce safe-guarding provisions into the fundamental law. The maximum limit of state indebtednes was fixed at three hundred thousand dollars, but the limit did not apply in case of money borrowed to repel invasion, suppress insurrection, or defend the State in time of war. The State, moreover, was to assume the territorial debt, and this might be in excess of the three-hundred-thousand-dollar limit. Since the territorial debt amounted to about $280,000[1] the practical limit of state indebtedness was $580,000.

Other constitutional provisions relating to debt apply to counties, towns, and cities. They are forbidden to lend their money or credit to corporations, railroad companies excepted. The Legislature is directed to limit the borrowing power of all local governmental agencies except for the purpose of securing a supply of water. The State, too, is prohibited from lending its money or credit to any corporation and from assuming the indebtedness of any county, town, or city.

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[1] An estimate based on data found in the report of the State Controller for 1865, pp. 9 and 19.

THE TERRITORIAL DEBT

In the course of three and a half years the Territory of Nevada had incurred a debt of $280,000. Part of this was a floating debt and part was bonded, and on some of the bonds the State paid 18 per cent interest. In 1867 the territorial debt was refunded by an issue of new bonds bearing 15 per cent interest. These were retired in 1872 by a new issue of fifteen-year bonds which bore 9½ per cent interest and which sold at par. This reduction of the rate of interest may be attributed in part to the improvement in credit conditions generally in the period following the close of the Civil War, but in greater degree to the improved credit of Nevada, and this was due mainly to the completion of the Central Pacific Railroad. In 1879, while these bonds still lacked eight years of maturity, they were repurchased by the State at a premium of nearly 30 per cent and were retired by a new issue of 5-per-cent bonds which are irredeemable. The State was able to dispose of these bonds by placing them in the state permanent school fund where they remain to the present time.[1]

In connection with the refunding operations of 1872 the Legislature resorted to subterfuge to increase its borrowing power. The State at this time had a bonded debt almost as large as the constitution permitted and also a large floating indebtedness. An additional loan was desired and, in order to evade the constitutional provision, the territorial debt was declared to be a hundred thousand dollars larger than it actually had been. The theory of the act was that the interest paid on the debt by the State constituted a part of the debt and by this means the debt was increasing with every interest payment. The total bonded debt at the end of 1872 was $660,000, an amount $80,000 in excess of the constitutional authorization, and there was a floating debt of $213,014. This is the largest debt ever reported in the history of the State.[1]

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[1] At about this date several counties issued bonds for various purposes. The counties possessing the more stable resources issued their bonds at 10 per cent interest, while those of inferior credit paid 12 to 16 per cent. It is a fair inference, therefore, that the State could not have sold these five-per-cent bonds in the regular bond market at par.

The rapid growth of the state debt during the early years of statehood was due in some measure to a decrease in the productivity of mines, but in much greater degree to the success of the mine owners in securing legislative exemption from a part of the taxes contemplated by the constitution.[2] On account of the peculiar character of the mining industry, it was greatly to the interest of the owners of the profitable mines to have the State and county resort to borrowing in place of increasing the taxes. To the ordinary taxpayer a public loan means a mere postponement of taxation, but to the mine owner postponement is ordinarily equivalent to evasion, since the mine is pretty sure to be worked out long before the debt is paid. To a marked extent the large borrowings made in time of great mining activity and for the purpose of maintaining government for mining communities have been paid in later years by the more stable agricultural and railroad interests.[1] The mining industry during the first fifteen years of territorial and state experience made some pretty large fortunes, but the State and the counties had failed to pay the cost of government by about two million dollars.[2]

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[1] This was made necessary in part by the embezzlement of funds by the first State Treasurer whose funds were deficient by $106,432. See Report of State Controller for 1869, p. 144.

[2] See p. 75.

The state debt was reduced somewhat during the years of maximum mine production (1875–1878) so that the indebtedness came within the constitutional limit, and since that time it has not undergone any marked reduction. In addition to the territorial debt, now considered to be $380,000, the bonded indebtedness since 1880 has varied from $131,000 in 1886 to $300,000 in 1914. During the last twenty years there has been little change in the state bonded indebtedness. The constitutional limit has prevented any large increase. The payment of one-twentieth of each issue of bonds annually is regularly reducing the old issues, but, with almost equal regularity, new bonds are issued. Recent bonds bear 5 per cent interest, but this constitutes no measure of the State's credit because the bonds are all placed in the state school fund at par, the rate of interest being an arbitrary affair, determined not by market conditions but by legislative authority.

A consequence of the practise of the State in keeping its debt nearly up to the constitutional limit is that it has not been in a position to meet an emergency or to undertake an enterprise calling for a large loan. On several occasions the State has been seriously embarrassed by this fact and, more recently, the growing interest in the good-roads movement has made it seem desirable to increase the borrowing power by constitutional amendment. At the general election of 1916 the people adopted such an amendment by a very large majority, and the Legislature may now authorize an indebtedness not to exceed one per cent of the assessed valuation on which ad valorem taxes are payable.

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[1] See case of Lincoln County debt, p. 186.

[2] The total indebtedness of all counties in 1873 was $1,187,963. The figures for earlier years are not available. See Report of Controller, 1873, p. 89.

It is greatly to be desired that the State shall exercise greater restraint in relation to this new power to create debts than it did in the former case. If the debt grows up to the new constitutional limit in the course of ten years, there will be a lack of elasticity again. The power of the Legislature to borrow at any particular time depends, not on the existence of a high constitutional limit, but on the distance between that limit and the existing debt. Particularly should the State avoid a bad policy in relation to borrowing for road building and maintenance. Only the more durable sorts of road improvements should be financed by means of loans and such loans should be for relatively short periods—for periods not exceeding the assured life of the improvements. Otherwise the indebtedness will accumulate through the necessity of successive renewals of such improvements.

COUNTY INDEBTEDNESS

Since there was no constitutional limit on county indebtedness, the debt-making disposition of the people of the State is more in evidence in the case of county debts. The constitution imposed upon the Legislature the duty of restricting county indebtedness. The Legislature has not passed a general act for this purpose, but has refused to permit the issue of bonds by any county except by specific legislative act in the case of each issue. Presumably the theory of this procedure is that it is the duty of the Legislature to scrutinize each proposed loan in the interest of conservatism. In practise all legislative bills authorizing county loans are referred to a committee consisting of the members of the Legislature from the county concerned and whatever this committee recommends is practically sure to be concurred in by the Legislature as a matter of legislative courtesy. This means that the Legislature does not in fact exercise any restrictive authority over a county. A general restrictive law with a requirement that upon the initiative of the Board of County Commissioners or upon the petition of taxpayers the question of each issue be referred to a vote of the people, would be more effective in checking unwarranted borrowing.

During the first nine or ten years of statehood a large county indebtedness was incurred. This was reduced in several counties and notably in Storey County after 1875 when the mine owners were required to pay the regular county tax rate on the net proceeds. During the period of small mining activity (1880–1902) the counties became more conservative and with one exception the debts were reduced to small proportions. During the recent period of general industrial revival the county borrowings have increased notably.[1]

The debt of Lincoln County calls for some special mention. The original debt was incurred in the midst of a mining boom which came to an end almost immediately after the debt was incurred. When the debt was incurred the taxable valuation of the county was nearly four million dollars. Three years later it was only a little over one-third of this amount, and by 1886 the assessed valuation was less than nine per cent of what it was when the bonds were issued. These bonds, amounting to $179,500, were issued in part to pay for a new courthouse necessitated by the removal of the county-seat to the big mining camp. They also served to take up a rather large floating debt incurred on account of the rapid growth of the mining camp. The county rate on the proceeds of mines at this time was so small that the chief burden of local taxes was carried by other property, and there was very little property outside of the mining camp at Pioche.

When the bonds were issued provision was made for a tax levy of 45 cents on the hundred dollars of assessed valuation to pay the interest and to apply on a sinking fund with a further provision to the effect that in case

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[1] County bonded indebtedness of counties of Nevada for various years as reported by the State Controller:

Year	*All counties except Lincoln*	*Lincoln County*
1873	$832,227	$179,500
1880	533,226	220,473
1902	160,900	629,662
1906	237,000	651,917
1916	1,452,850	435,000

this tax should not produce revenue sufficient to pay the interest there should be a transfer of money from the county general fund to the interest fund. The bonds bore 10 per cent interest and there was never a time when the 45-cent tax rate produced sufficient revenue to pay the interest on the bonds. Since current revenues were too small for current expenses, a new floating debt was incurred immediately. After the value of property had depreciated, the county failed to pay the interest on the bonds and the debt began to grow by the addition of the unpaid interest. Within ten years the debt had become larger than the total assessed valuation of the county and this condition continued for ten or fifteen years.

When the San Pedro, Los Angeles and Salt Lake Railroad was projected to pass through Lincoln County it was evident to the men back of the project that if they should build the road they would be responsible for most of the old debt, since the railroad would be the chief property of the county and would be of sufficient value to make the county solvent. They, therefore, proceeded to buy up the old bonds, securing them, it is said, at a very low price. Soon after the county's credit had been improved by the construction of the railroad the bonds were refunded, the owners of the old bonds accepting new bonds with a face value equal to 65 per cent of the old debt including interest. The new bonds bore 4 per cent interest. A few years later these bonds were sold to the State on account of the state school fund, the State getting them at a considerable discount. The experience of Lincoln County shows how a big mining company may by means of loans escape for all time the cost of government. The debt incurred in 1873 was not paid at a later time by the men responsible for its creation or by the property interests for the benefit of which it was created. The debt is now being paid by the railroad, by a few scattered farmers and stockmen, and by new mining interests. In cases of this kind of debt there is not a deferred payment but a shifted payment. To a certain extent the big mining gains of the period, 1871–1875, were secured at the expense of the more permanent interests of the county forty years later.

The public indebtedness of Nevada is unusually large for a State with no large city. The per capita state debt less sinking fund assets is nearly twice as large as the average for all States.[1] The per capita county debt is about three and a half times as large as the per capita for the counties of all States. The per capita school district debt for all districts not including incorporated cities is over three times the average for such school districts of all States. The per capita debts of incorporated cities are about forty per cent larger than in the cities of the same size class of all States. In some States and in many cities the indebtedness is balanced in large measure by publicly owned water-works and other utilities, and in such cases the interest is not a charge on the ordinary public revenues, but is paid out of the earnings of the property. There is little or no such public property in Nevada, and consequently the burden of debt on the public revenues is relatively heavier than the above figures would indicate.[1]

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[1] Based on statistics in Census Report on Wealth, Debt, and Taxation for 1913.

If the comparison be made, not on the basis of population but on that of wealth, the results are more favorable to Nevada. Probably the total public indebtedness is not very much larger in proportion to the total wealth of the State than is the average for all States. But, taking into consideration the fact that much of the property in Nevada—the mines—is not taxable and the further fact that neither the State nor any of its cities owns any income-producing property, it would appear that the burden of indebtedness is more than ordinarily heavy so far as the taxable property is concerned. In some cases the burden is all the greater because the debt was incurred for current expenses and for improvements of transient value, so that it is not balanced by assets of any kind.

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[1] Public utilities of small value are owned by two counties.

CHAPTER X

THE PROBLEM OF TAX REFORM IN NEVADA

It is not a part of my purpose to set forth a program for tax reform. The practical experience of the State has demonstrated that there is a need for certain developments in the system of taxation, and these needs have been pointed out in the preceding pages in connection with that experience. A few observations relative to the situation in Nevada in relation to tax reform are added in this concluding chapter.

In many respects the problems of tax reform in Nevada are like those of other States, and these call for no extended discussion in this place. In the first place, this subject has to compete with many other important questions for public interest. Few persons give sufficiently sustained attention to the subject to permit of the development of sound judgments. Popular study of public finance is discouraged by the lack of suitable literature setting forth the essential facts in a lucid manner and by the failure of the various public authorities to publish financial reports in such a way that the intelligent citizen can understand them without excessive labor.[1]

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[1] In the absence of some public body, such as the Tax Commission, to make a special study of the conditions and needs of Nevada, there has been a notable tendency on the part of Nevada legislators to copy its tax-reform legislation from California. Sometimes this has worked well, but in numerous instances the California laws have failed to fit Nevada conditions. While Nevada should give due weight to the experience of other States, it is not creditable that the laws of other States should be copied in a slavish and indiscriminate way. After proper study the State should act on its own initiative.

Then there are certain old theories of taxation which have come down from the early part of the last century and which are not valid in relation to present economic and political conditions. The fact that these theories are not based on any serious study of the subject of taxation, but are commonly taken to be self-evident, and the fact that their chief support is custom, makes progress necessarily slow.

No tax reform can be effected without modifying the situation for private interests. A good system of taxation is favorable to business interests generally and a bad system is hurtful, but, in any change for the better, some interests are pretty sure to be deprived of certain advantages which they have enjoyed. As a rule the business interests likely to suffer from a change are represented by the more agressive and alert members of a community, while the much greater number of people who stand to benefit from the reform are relatively passive and indifferent.

In their efforts to introduce reforms, legislative bodies frequently fail to provide for a gradual and orderly change from the old to the new. As a result the process of change creates needless financial difficulties for the government and needless annoyance to the taxpaying public, and this tends to make opponents to some reforms which otherwise might be popular.

There has been some lack of continuity in financial policy because, with a constant change in the personnel of the Legislature and of administrative bodies, there has been too little experience and too little knowledge of their predecessors' experience on the part of officers responsible for financial policy. The work of the State Tax Commission is remedying this defect and making possible a more consistent sort of progress.

In Nevada, however, there are a few special problems connected with tax reform, and these call for some discussion. The constitutional provisions relating to taxation are too rigid to permit of an orderly progress in the way of adapting our system of taxation to present-day needs. Apparently these provisions grew out of a feeling that the people and the Legislature could not be trusted to do justice to the various interests and to conserve the permanent interests of the State. There was much in early conditions to justify this attitude. Society lacked stability in every way, and this lack of stability was pretty sure to be reflected in public policies generally, so far as the constitution imposed no restrictions. The value of rather numerous and rigid constitutional restrictions under such circumstances cannot be questioned.

Moreover, Nevada has had an unusual experience in that the period of general social instability was not confined to the generation of early pioneering. After more than fifty years of statehood there persist many important elements of social instability. On account of the peculiar industrial conditions existing in Nevada, there is an unusually large number of homeless migratory workers with no permanent interests in any community, while the number of home-owning farmers and other small property owners is relatively small. There has been a certain development, however, in the direction of greater social stability. Just how far it would go to justify the State in liberalizing its constitution—in removing restrictions on the action of the Legislature and of the people—is not certain.

The State is now confronted with this situation: In order to permit of any orderly progress along the lines of tax reform, we must abandon some of the constitutional restrictions and trust more to the discretion of the Legislature and of the people. But there is some doubt as to whether the State has reached that degree of social stability and political maturity necessary to make such a course safe. So far all efforts to secure such amendments have failed. I believe that the State could at this time adopt the amendment proposed by the Tax Commission without undue risk. The aim of this proposed amendment is to permit of a proper classification of property for purposes of taxation. We must recognize that uniformity of procedure in relation to the taxation of all sorts of property which are far from uniform in character does not secure uniformity in practical results. Uniformity in any useful sense of the word can be secured only by adapting the procedure of taxation to the character of the property to be taxed. The proposed amendment is conservative in character and it meets with the approval of the National Tax Association and of the great majority of experts in the subject of taxation. It is proposed to amend Article X of the constitution to read as follows:

> The power of taxation shall never be surrendered, suspended, or contracted away. All taxes shall be uniform upon the same class of

> property within the territorial limits of the authority levying the tax, and shall be levied and collected for public purposes only.

We are living in a time of large political and economic readjustments. The mere fact that a custom, law, or institution is old is an increasingly weak argument for its perpetuation. The demand everywhere is for such changes as may be needful in view of present-day circumstances. This is particularly true in the field of taxation. The industrial evolution of the last half-century calls for a corresponding evolution in the system of taxation. In Nevada there is the special demand for an adjustment to unique economic conditions. It is not sufficient to copy the laws of other States into our statute books. A copied system, like a purely traditional system, is sure to be a misfit. For a system of taxation that will contribute most to the public welfare the State must look to the wise initiative and public spirit of its own citizens.

BIBLIOGRAPHICAL

The bibliography of taxation in any State is found mainly in official documents, the character of which is so well known that no detailed reference is necessary. The author has made large use of the territorial and state laws of Nevada and California and of legislative journals. He has examined the messages of the Governors of Nevada and the reports of all state financial officers from the beginning down to the present time. The tax rolls of the various counties have been consulted and newspapers have yielded their quota of information. Much use has been made of the United States Census Reports. Litigation has been traced through the state and federal courts. Among the histories of Nevada, that by Bancroft and that by Angel have been most useful. The debates of the Nevada Constitutional Convention are most valuable. Considerable information and much help on the side of interpretation have come through numerous personal conversations with taxpayers and financial officers of county and State. In the background there are the reports of various State Tax Commissions, the publications of the National Tax Association, the standard works on public finance, and other well-known literary evidences of the growing interest in taxation.

NEVADA HISTORICAL SOCIETY PUBLICATIONS

The following publications issued by the Nevada Historical Society are sent free to members and in exchange for certain other books and newspapers. They are for sale at the prices stated. All orders and remittances should be addressed to the Secretary, Jeanne Elizabeth Wier, Reno, Nevada.

I. **Biennial Reports:**

1. **First Biennial Report of the Nevada Historical Society, 1907–8; leading historical papers and poems as follows:**
   - Arts and Crafts of Nevada Indians. Mrs. Abram Cohn.
   - The Battle-Born. Sam P. Davis.
   - The Need of a Brief History of Nevada. Mrs. M. S. Doten.
   - Reminiscences of Nevada. R. L. Fulton.
   - Early Days in Lincoln County. Charles Gracey.
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   - The Mission of the State Historical Society. Jeanne E. Wier.
   - The True History of the Flag, "Old Glory," from account furnished by Capt. and Mrs. Chas. H. Rowland. Jeanne E. Wier.

   Carson City, 1909. Paper, 75 cents; cloth, $1.

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   - John C. Fremont's Expedition in Nevada, 1843–4. James U. Smith.
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   - The Negative Quality in Nevada History. Samuel Platt.
   - Ancestry of Henry Thompkins Paige Comstock, written from data furnished by L. W. Comstock. Jeanne E. Wier.

Experiences of a Nevada Pioneer. Aaron D. Campton. Jeanne E. Wier.

The Work of the Western State Historical Society as illustrated by Nevada. Jeanne E. Wier.

Truckee Meadow Memoirs. Rev. F. M. Willis.

Carson City, 1911. Paper, 75 cents; cloth, $1.

3. Third Biennial Report of the Nevada Historical Society, 1911–12; leading historical papers and poems as follows:

The Obligation of Nevada Toward the Writing of Her Own History. Dr. H. E. Bolton.

The Fault in the Comstock. James V. Comerford.

Reminiscences of James H. Kinkead. R. L. Fulton.

The Pioneers. Judge C. C. Goodwin.

The Significance of the Nomenclature in Churchill, Douglas, Lyon, Ormsby, and Storey Counties, Nevada. Vera E. Hash, Cora M. Cleator, and Florence L. Bray.

The Influence of Nevada on the National Mining Legislation of 1866. Beulah Hershiser.

The First Train Robbery on the Pacific Coast. James H. Kinkead.

Some Steps in the Evolution of Nevada Merchandising. Dr. H. E. Reid.

Recollections of the Early History of Smith Valley, Nevada. Timothy B. Smith.

The Reign of Violence in El Dorado Canyon, from manuscript furnished by John L. Riggs. Jeanne E. Wier.

Carson City, 1913. Paper, 75 cents; cloth, $1.

4. Fourth and Fifth Biennial Reports of the Nevada Historical Society, 1913–16.

Carson City, 1917. (Paper, for members and exchange only.)

II. Nevada Historical Society Papers, Vol. I, 1913–16. Historical papers and poems as follows:

Julia, Medley of the Comstock Mines. Anonymous.

A Faithful Account of the Last Indian Uprising in Nevada. Fannie Mayer Bangs.

Special Legislation in Nevada as Illustrated by the Laws of 1913. Clara Smith Beatty.

Meditation. Mrs. Edward D. Boyle.

Nevada, Historic and Prehistoric. R. L. Fulton.

The Oak and the Vine. Rollin M. Daggett.

Virginia City. Jos. T. Goodman.

Fourth of July Address, Carson City, 1915. Judge C. C. Goodwin.

The Artistic Idea as Expressed by Early Nevada Authors. Jessie Hylton.

Nevada in History and Prophecy. George Wharton James.

Memorial Articles. Dr. Joseph E. Stubbs, Allen Bragg, and Mary S. Doten.

Religious Development in Nevada. Alice Frances Trout.

Mark Twain's Relation to Nevada and to the West. Jeanne E. Wier.

Mementoes of Nevada's Olden Days and the Work of the Nevada Historical Society as Reviewed in Nevada's Semicentennial Year. Jeanne E. Wier.

Pageant of Nevada History. Jeanne E. Wier.

Semicentennial of Nevada History. Jeanne E. Wier.

Manuscripts of Nevada Pioneers as found in the Bancroft Library, University of California. Edited by Jeanne E. Wi[illegible]

Carson City, 1917. Paper, 75 cents; cloth, $1.

III. The Semicentennial Celebration of Nevada's Statehood (including Pageant). Reprint of part of Historical Papers, 1913–16. (In press.) Jeanne E. Wier.

IV. Taxation in Nevada, a History. Vol. I of Applied History Series. Romanzo Adams.

Carson City, 1918. Cloth, $1.50.

V. Pamphlets. (25 cents each.)

Program of the Pageant of Nevada History, 1914. Jeanne E. Wier.

Some Suggestions for Public School Celebration of Nevada's Semicentennial of Statehood, October 31, 1914. Carson City, 24pp., 1914. Jeanne E. Wier.

Obligation of Nevada Toward the Writing of Her Own History. Reno, 1912. Dr. H. E. Bolton.

The Work of the Western Historical Society as Illustrated by Nevada. Reprint from Report of American Historical Association. 8pp. Washington, 1912. Jeanne E. Wier.